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INDEPENDENT ANALYSIS OF POLITICS AND GOVERNMENT

PETE WILSON YEAR ONE

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California JOURNAL

DECEMBER 1991
VOLUME XXII, NUMBER 12

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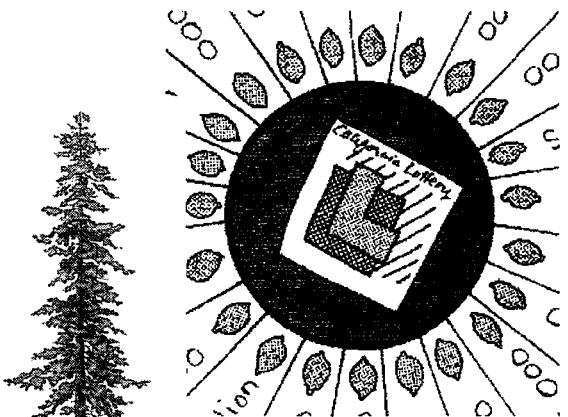

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UP FRONT

Among the visitors who viewed the devastation left by the Oakland Hills fire were Governor Pete Wilson, Oakland Mayor Elihu Harris and Assembly Speaker Willie Brown. As the television cameras surrounded Wilson, Brown quietly wandered off and poked through the rubble of what once had been expensive townhouses with spectacular views of San Francisco Bay.

"This is unbelievable," Brown said. "I've never in my life seen anything that compares with this."

Brown, whose love for fast cars is legendary, stood in the debris of what had been a garage, looked closely at the remains of a burned-out hulk and identified it as a Datsun 240Z.

"I found a Porsche over there," he said, pointing down the street.

Soon, Brown, too, was surrounded by the cameras, and he warned reporters to watch for nails sticking out of the debris. "I'm being careful," he said. "Can you imagine a politician with lockjaw?"

And we thought we were first. The November issue of *Lobbying and Influence Alert*, a newsletter for professional lobbyists, reports that California is the "ninth most lobbified" state in the nation. The ranking was determined by dividing the number of lobbyists by the number of legislators and comparing California's figure (8.2) with the other 49 states. In fact, California didn't even come close to winning the title; that honor went to Arizona which has 28 lobbyists for every lawmaker. Missouri was second with 24.11 lobbyists per legislator (an aberration caused by a recently amended law defining lobbyists). Florida (19.47), Oregon (15.20) and Ohio (13.26) rounded out the top five. Nevada, New York and Michigan also placed ahead of California.

California also ranked 12th for the number of registered lobbyists — 979. Missouri was first with 4750, again because of a law, since amended, broadening the definition of a lobbyist. After the amendment, Missouri has only 750 lobbyists. Florida was second with 3115, Arizona third with 2520 and New York fourth with 1919. Georgia was 10th with 1062. Hawaii has the fewest number of lobbyists — 187.

Think about Florida for a moment. Imagine you're a lobbyist, trying to get the attention of one of the Sunshine State's 160 legislators. Imagine the last day of the legislative session. Imagine standing outside the Senate chamber with a few thousand of your colleagues. Imagine being the Maalox distributor for Tallahassee. It would be more lucrative than being a lobbyist.

The University of California Regents picked the right person when they selected David P. Gardner to head the system during the George Deukmejian years. Gardner, politically and personally conservative, made an immediate connection with the governor. As a result, Gardner managed to navigate the university through some tough budget times. Indeed, the nine-campus system did exceedingly well, increasing its budget year after year while other budgets shrank. Gardner also managed to take the system through the usual array of internal crises over affirmative action, weapons laboratories and divestiture of investments in South Africa. Thus, it was something of a shock when he announced last month that he would resign his post next October. The reason he cited was simple: He found that the job was too tough after the death 10 months ago of his wife of 32 years, Libby, who was 55. When Gardner took the post, he told the Regents that he would never work on Sundays nor be gone for more than two days in a row so he could spend time with his family. Although Gardner's departure will be a loss to the state, the matter of his leaving gives one more reason he should be missed. In the past he could be admired for his intelligence and his determination. Now, he can be admired for his heart as well.

Voters in Washington state may be as mad at their incumbent legislators as voters in other parts of the country, but incumbent politicians there apparently figured out a sure-fire way to keep the citizens from approving term limits: call it a California plot. Normally, that might be a bit tricky, even in Washington, where stories were afoot that the term-limit measure was part of a plot by California to weaken the Washington congressional delegation, headed by House Speaker Tom Foley, so that the soon-to-be 52-member California delegation could steal Washington water and pipe it south. Now that argument might sound a little weird, even to California-hating Washingtonians. But it got a boost just before the election with the arrival in Washington of former California Governor Jerry Brown who campaigned in favor of term limits. Maybe it's just coincidence, but Washington's term-limit initiative was leading in the polls until Jerry arrived. Perhaps voters up there questioned his credibility. After all, it was only a little more than a year ago that he was chairman of the California Democratic Party charged with raising lots of money that would be used to — you guessed it — defeat a term-limit initiative.

"I have suffered from being misunderstood, but I would have suffered a hell of a lot more if I had been understood."

— Clarence Darrow

Come across a blurb lately that's nosy, newsy or smartalecky about California government, politics or politicians? Share it with the Journal. *We pay up to $25 for entertaining tidbits published in "Up Front." So, rush your items to Up Front, 1714 Capitol Avenue, Sacramento, CA 95814. Sorry, submissions cannot be returned.*

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ROSTRUM

Political consultants

Your article on political consultants (see *CJ*, September 1991) gave readers the impression that there are no African-American, Latino or Asian-American political consultants worth mentioning. I noticed reference to one Asian-American firm and one firm where a principal appears to be Latino.

While I am keenly aware that this has been a white-male dominated field, there are minority consultants who have fought their way into the business in spite of the endemic racism. They, too, should have been mentioned. For instance, I am amazed that you did not mention the Sacramento-based firm of Kaufman Campaign Consultants. Gale Kaufman has managed and won many significant campaigns in California, including several for candidates of color and for women — mine included.

BARBARA LEE
Assemblywoman
13th District
Oakland

Private judges

While your article on alternative dispute resolution (see "Justice for Sale," *CJ*, October 1991) focused on the business of private judging, it should be noted that numerous ADR centers throughout California provide free or low-cost mediation and/or arbitration services to thousands of California residents each year. Our agency alone served over 3000 individuals this past year in San Francisco, western Contra Costa and San Mateo counties. Although many ADR providers focus on civil disputes, a few agencies like ours also provide service in the criminal justice arena. As you pointed out, only if the flow of criminal cases can be reduced will civil cases more readily access the traditional court system.

KAREN MOEN
Executive Director
California Community Dispute Services
San Francisco

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Reapportionment

Your article on the technical aspects of redistricting (see "Carving California," *CJ*, November 1991) quotes me as lauding the Senate's redistricting plan. In fact, I praised the Senate's *process* (up to the final stages) and the information packet produced by the Senate staff. The *plan* itself is a very different matter and is best characterized as an update of the bipartisan gerrymander of 1982.

ALAN HELSOP
Rose Institute
Claremont McKenna College

Austin City Limits

In an October "Up Front" item, you commented on the appearance of James Morgan, chairman of Applied Materials, in a humorous advertisement meant to dispel common myths about Austin, Texas. The ad was run by Harris Branch Development, where Applied Materials is expanding its Austin operation. James Morgan's participated in the ad at the request of the developer.

Your item erroneously suggested that Applied Materials' expansion in Austin was at the expense of its Santa Clara, California, operation. This is not true; Applied Materials is expanding its Santa Clara operations faster and on a greater scale than anywhere else in the world. By comparison, the Austin expansion is 20 percent of the Santa Clara expansion.

You also implied that Mr. Morgan's participation in the ad indicated he was encouraging other companies to leave California for Austin. In truth, Mr. Morgan is bullish on the state and has worked hard to promote California as a viable location for commerce. Wherever he goes, he extols the virtues and strengths of California. It was wrong to suggest that he would ever promote Texas *over* California.

THOMAS HAYES
Corporate relations manager
Applied Materials
Santa Clara

Gary Condit

In your article on Congressman Gary Condit (see *CJ*, November 1991), you express surprise that Condit won't play insider games and that he won't let the leadership hold his vote hostage to committee appointments or pork-barrel projects. Those of us who live in the Central Valley and have watched Condit's career aren't surprised at all. In fact, that's precisely why we re-elect him every two years, with ever-increasing victory margins.

GENE CRABB
Chairperson
27th Assembly District Committee

As chairman of the Subcommittee on Government Information, Justice and Agriculture, I thought it appropriate to respond to your article on Congressman Condit. Gary has been a valuable and reliable member of my subcommittee since he was assigned to it in 1989. He has brought a wealth of knowledge and expertise on the subject of our nation's drug problem, as well as other issues. I am convinced that the experience he gained as a state legislator before coming to Congress has allowed him to "hit the ground running" on many issues. He accompanied me on a fact-finding mission to Andean source countries and made noteworthy contributions to our oversight work on "Operation Snowcap." He also conducted a field hearing for the subcommittee on the Byrne Memorial Grant Program, helping to establish a solid oversight record which demonstrated that the Justice Department was misusing grant funds and not passing enough of the funding through to state and local governments. Subsequent legislation, introduced by Gary and me, was designed to force government officials to more fully and effectively coordinate elements of drug treatment in the criminal justice system.

Congressman Condit's support and his constant positive attitude regarding subcommittee efforts is exemplary. He is truly committed to making the most of his assignment to our panel. Considering all other demands on the schedule of a member of Congress, his record of attendance and participation in hearings is laudable. I count him as one of the most committed and productive members on the subcommittee and a credit to the Congress and the committee.

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Congressman, West Virginia
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Pete Wilson after one year

Natural disasters ... and other highlights from the governor's inaugural season

By Richard Zeiger

Pete Wilson's first year in office has been a year of disasters — some natural, some unnatural. The state had its fifth year of drought, a freeze, an urban fire and now white flies in the Imperial Valley.

It also faces a budget shortfall that at times appears bottomless, some $14.3 billion at the time the budget was passed in July and perhaps another $6 billion by budget-passing time next summer. Wilson arm-wrestled with the Legislature over the issue of reapportionment and he infuriated the state's gay community by vetoing its long-sought equal employment bill.

For a man who is used to being on top of the political agenda, whose campaign for governor seemed prepared for every possible contingency, actually holding the governorship must be something of a shock.

The unexpected and unrelenting crises have sidetracked Wilson from much of the ambitious agenda he hoped to tackle in his first year as governor. Instead he has done battle with unforseen events that have taken their toll on Wilson politically. His stock in the polls has plummeted the California Poll indicated that the percentage of people who think he is doing a good or excellent job dropped from 36 percent in February to 29 percent in September. Perhaps more alarming, the percentage of those who say he is doing a poor or very poor job increased from 6 percent to 21 percent during those seven months.

Furthermore, the governor managed to alienate a substantial portion of his own political party, first by advocating more taxes than many of the more conservative Republicans could swallow and then by blocking a reapportionment plan advocated by some of the more conservative officeholders in his party who worried that a plan

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that drew more Republican districts would result in their own strongholds being weakened.

According to one Republican political observer, the bad-feelings could linger long enough to make Wilson a one-term governor.

"The dissatisfaction is just starting to be reflected in the polls," the Republican observer noted. "The Democrats can read these, and they smell blood."

Wilson himself doesn't totally dispute the notion, saying, "Hell, I could be a casualty. I could be a one-termer. But I don't think so because I think the recession will disappear."

Wilson notes he has "faced an unnatural series of natural disasters which has made a considerable claim on the time, treasury and energy that obviously we'd like to expend in other directions."

In the meantime, Wilson will have to travel down a very bumpy road.

The governor has already declared that he will approve no further tax increases, a notion supported by legislative leaders of both houses fearful of the election-year retribution that might be heaped on incumbents by voters who face tax boosts.

But foregoing taxes means Wilson and legislators must make even greater cuts in state services, cuts that Wilson last year called Draconian and this year look no more palatable.

"What is very clear is that we simply cannot impose additional taxes. The people can't afford to pay them and the businesses that have the option of doing so will locate elsewhere. As a result, we're going to have to do some terribly unpleasant things, things that I will hate doing and that the Legislature will hate doing," Wilson offered.

The last round of budget cuts, cuts which made up about half of the $14.3 billion deficit, were not popular with voters. Some 21 percent of California Poll respondents who were unhappy with Wilson cited cuts as the reason for their disapproval. But the taxes were even less popular, the reason for dislike by nearly a third of those who thought Wilson's performance poor.

Wilson's supporters, in fact, say that these contradictory results show that Wilson actually did a good job of sheparding his first budget through the Legislature — a contention largely confirmed by most of those interviewed for this story.

The budget gap was closed with a combination of tax increases, some temporary and some permanent, cuts in spending — including a reduction in payments to families on welfare — and the usual amount of fiscal gimmickry that drew the praises of all but the most hard-core anti-tax conservatives.

This group of intransigent Republicans, located almost exclusively in the Assembly, ironically might have pushed Wilson toward a more liberal position because of its failure to cooperate. These Republicans were so hard-core in their position that they took themselves out of the game, forcing Wilson to seek most of his votes from Democrats, Democrats who were inclined to favor taxes over spending cuts.

"I think that if there were more Republican votes, if there were more Republicans to begin with and we had gotten more of those votes to begin with, we could have gotten more in the way of spending cuts because we would have had to get fewer Democrats. To the extent they were unwilling to vote for certain spending cuts, they had no voice at all," Wilson said. The governor's anger at this group is all the greater because he believes they acted hypocritically in refusing any tax increase.

"The truth is, there wasn't anybody upstairs [in the Capitol] who was willing to vote for $14 billion in tax cuts," said the governor. "That's what I mean when I say that some of the ... critics were distinctly hypocritical, simply because the alternative to those taxes that they couldn't bring themselves to vote for were spending cuts that they couldn't bring themselves to vote for either, or that they knew were utterly unrealistic because they knew there weren't enough votes. There were a few people who would be happy to vote for any spending cut, but not very many."

Things won't get much easier in this next round. These conservative Republicans remain angry. And Wilson this time cannot count on the assistance of Democrats.

For one thing, Democrats are very angry about Wilson's approach to reapportionment. They maintain Wilson never really intended to sign any reapportionment bill, except one that completely capitulated to Republican demands. They contend that his strategy all along was to send the matter to the state Supreme Court, dominated by Republicans appointed by Wilson and his predecessor, former Governor George Deukmejian.

"Pete Wilson is more anti-Legislature than any governor with whom I've served," said Assembly Speaker Willie Brown, who was a lawmaker when Ronald Reagan was governor. "He is without a Republican constituency in the Legislature, and he clearly has alienated the Democratic constituency. He has no prospects at all."

Brown says that this time around there is no way he can come up with 45 Assembly Democratic votes for the budget. "I certainly can't deliver 45 votes; I don't know where he'll get the votes he needs."

Brown also believes Wilson may become pinned down in the next year by a recall movement being supported by some public employee groups, retired government employee groups and perhaps tacitly by conservative Republicans. Brown believes there is a decent chance the recall will make it to the ballot, putting Wilson before the voters in 1992 along with George Bush's presidential reelection campaign.

If the economy stays bad, "He's in real trouble this year. For the first time, he'll be playing defense." Brown said.

Even if Wilson should survive the recall attempt, unless he gets a very big showing, Democrats will view him as vulnerable in 1994, Brown believes.

"If he goes in the mid-50s on the recall, I guarantee that Miss [Kathleen] Brown and Mr. [John] Garamendi will turn up the burners," said Brown.

Still, the speaker's enmity for Wilson didn't stop him from agreeing to a special session of the Legislature this month to see what can be done to stem the flow of cash from state coffers during the remainder of this fiscal year. Not coincidentally, it will give Brown one more chance to cut a reapportionment deal before the Supreme Court draws new lines shortly after the first of the year. If an accord can somehow be reached on reapportionment, it might make the Legislature more cooperative.

Wilson will need Democratic help to get through this year's budget crises. If there were any easy cuts last time, they are gone now, and the governor readily admits he will have to go after big ticket — and popular — budget items to bring spending down. Among the most likely targets is education. Although grade schools and community colleges make up some 41 percent of the state budget, they were spared the worst cuts last time around.

Wilson says he doesn't mind spending on education, if the

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education system is effective. But these days he has taken to citing figures that show where the system fails, and he says for all the state's spending "we're not beginning to get what we're paying for."

The changes Wilson wants, including testing of students and teachers to determine which teachers are effective, is sure to be contested by powerful teacher unions and probably resisted by Democrats in the Legislature.

And Wilson needs to be aware of legislative sensibilities. Unlike Deukmejian, Wilson has an ambitious legislative program he wants to see enacted into law. He got some of it passed — particularly changes he advocated in the budget process and creation of an environmental protection agency — but lawmakers stopped him in other areas. They refused, for example, to approve his plan for a Department of Child Development and Education, making it, in Wilson's words, "hostage to the reapportionment struggle. And I think that's inexcusable."

Wilson, though, had no compunctions about hostage-taking when he attempted to force the Legislature into approving some last-minute changes in the state's workers' compensation program, a proposal Wilson says he intends to revive this year.

Interpretations of Wilson's workers' compensation efforts vary. Wilson representatives say the governor had few expectations that the Legislature would comply but felt that he had to set the stage for further efforts this year. Critics of the effort say the governor was dragged into a squabble he was unlikely to win as a result of some bad advice from the business community, which has too much sway over the governor. Even with this bad advice, others offer, the governor was on the verge of winning that dispute when he blinked, backing off just as lawmakers were about to capitulate.

Wilson himself says that he had little choice but to take on the issue at budget time.

"When the hell would you ever have anything like the same leverage?" Wilson asked. "I could have avoided getting into trouble by not running for governor. I don't think ducking challenges is a particularly clever thing. I think the workers' comp situation is one where I think I was absolutely right. What they're saying is I should have ducked it."

In fact, the governor has found himself in several binds this year as a result of his inability to duck or deflect tricky questions. Most prominent was his veto of AB 101, the measure that would have barred employers from discriminating against individuals on the basis of sexual orientation.

Wilson insists he "never promised during the campaign" that he would sign the measure. But that impression was left with the gay community nonetheless, and it was outraged when Wilson finally vetoed the measure.

Some political observers have speculated that Wilson vetoed the proposal in order to shore up his deteriorating rapport with the most conservative wing of his own party and because he needed to protect the primary prospects of Republican John Seymour, Wilson's appointee as his successor in the U.S. Senate. Seymour faces a primary challenge from the right, and had the bill become law, there was the distinct possibility that a referendum would have been mounted to have it repealed — a proposal that might have been on the primary ballot along with Seymour. It would have become a magnet for right-wing voters who also may have voted against Seymour.

If Wilson wanted to placate the right, he failed. Included in his veto message was a sentence saying it was not intended to give solace to "bigots" and the narrow-minded, lines that the right took as a slap in the face.

Wilson dismisses these contentions, however, saying the bill was vetoed on legal grounds, that it was unnecessary because protections existed in current law — a position recently confirmed by an appellate court ruling — and because additional protections would place an undue burden on the business community. But the governor failed to get this message out to the gay community, which had other expectations. And with a public-opinion poll about to come out showing support for the measure, Wilson hurriedly vetoed it, setting off a wave of protests across the state.

Wilson also ran into bad timing with his veto of another bill, this one to restore the ability of the state Fair Employment Practices Commission to award penalties in cases of sexual harassment. The state Supreme Court recently had ruled the commission exceeded its authority when it made this type of award. That Wilson veto came on the heels of the U.S. Senate's hearings into sexual harassment charges against U.S. Supreme Court nominee Clarence Thomas.

The bill, vetoed at the behest of business, was carried by a Republican, and Wilson could find it has significant repercussions in the next year. Political women of all stripes have been mobilized as a result of the Thomas hearings, and they could turn on Wilson or other candidates who are perceived as being on the wrong side of the issue.

The rash of bad timing has been attributed by the press,

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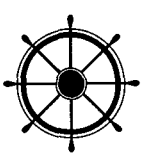

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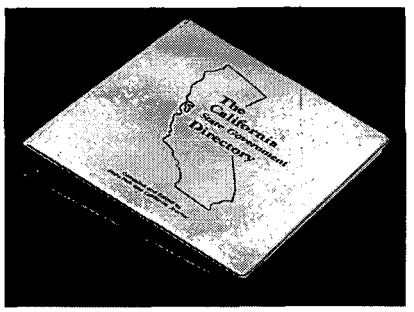

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in large measure, to the loss of Otto Bos, Wilson's longtime advisor whose tasks included handling the media. Bos, who died unexpectedly of a heart attack just before final deliberations on the budget, was the Wilson aide who worried about long-range political planning. He was widely respected among the press corps for his ability to put the most favorable "spin" on Wilson activities. Bos admirers believe he might have kept his boss out of some trouble, for example, by diffusing expectations of a Wilson signature on the gay-rights bill.

"Otto had that facility. He's one of only two people who can walk in and say, 'Governor, you're all f----- up.' [Chief of Staff] Bob White is the other, but he works primarily on internal matters. The governor desperately needs people who will tell him the truth, who have the ability to talk sense to him," offered one Republican observer.

Wilson Press Secretary Bill Livingstone admits that his office has been swamped by the crises siege of the past year, and he laments that there has been no time to look ahead. But he believes that, even had Bos been there, things would not have been much different.

Wilson agrees, saying in recent interviews that his decisions would have been the same, even had Bos been on hand to give advice.

In part, the pessimism about Wilson may be the result of higher expectations about the new administration. Wilson himself set an ambitious agenda for his governorship. But despite 16-hour days that have left the governor with a haggard look, Wilson has been unable to do all he wanted and to manage the crises at the same time.

Certainly the press, and probably the public, has become disenchanted with Wilson. After the lethargic Deukmejian years, expectations for Wilson were high, higher perhaps than any governor could meet, and the new administration in its early days did nothing to defuse these.

Now, there is a lot of talk among administration officials about how tough things have been because of the state's unending crises. Thus, these officials say, Wilson has done better than should have been expected.

Even if public perceptions are otherwise, predictions about Wilson's political demise are not universal and are probably premature. Observers note that Ronald Reagan managed to survive a first-year tax increase with his hard-line reputation intact.

If Wilson can somehow manage to cajole the Legislature into making more cuts and avoid further tax increases; if the economy improves and the state's financial coffers again fill; and perhaps if Mother Nature gives him — and the citizenry — a break, the governor still could end up in good shape when re-election time comes up in 1994.

In his state-of-the-state address last January, Wilson outlined "a new vision of government, a vision based on the old adage that an ounce of prevention is worth a pound of cure." But things have been so tough in California that the state has been hard put to purchase much of the medicine Wilson is advocating.

The country's recession is not of Wilson's making, but at least for the time being, he is one of its casualties.

Still, the governor maintains "my optimism continues."

"California is wonderfully positioned, both geographically and in terms of its being the most multicultural society in the world. We look both west across the Pacific and south to Mexico and Latin America for what I think are going to be very exciting economic times."

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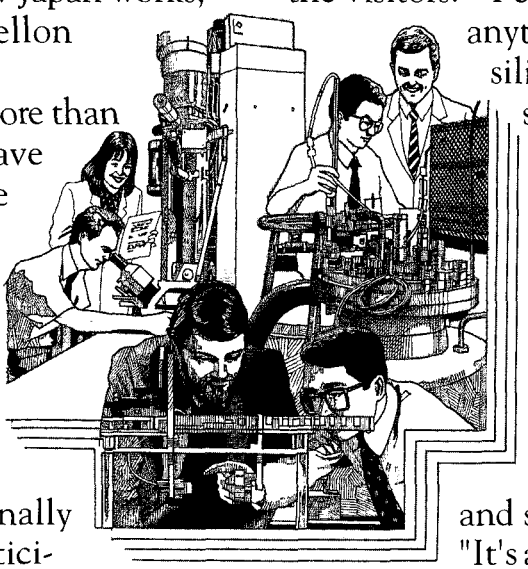

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HCRL's research facilities impressed the visitors. "I could do just about anything to a piece of silicon that I wanted to," says John Snyder, a Stanford University doctoral student in electrical engineering, who worked on a new kind of transistor. The visitors also appreciated the natural beauty of HCRL's campus,with its goldfish-stocked lake and sheltering woodlands. "It's an oasis of calm in Tokyo," says Dr. Cain.

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EXPORTING DISCONTENT

Term limits: California's gift (?) to the nation

By Charles Price and Helen Neves

"Restriction upon the succession of incumbents serves a rational public policy. This may deny qualified men an opportunity to serve, [but] as a general rule the overall health of the body politic is enhanced by limitations on continuous tenure. ... [The state has a legitimate interest in] protecting against an entrenched, dynastic legislative bureaucracy."

— Chief Justice Malcolm Lucas, writing for the majority in *Legislature of the State of California v. March Fong Eu*, October 11, 1991.

If those words were noise, they would be the brief hiss of a candle flame being snuffed out against a damp thumb. If they were an episode of "The Twilight Zone," they would be an unthinkable nightmare become reality. For with those words, a six-to-one majority of the California Supreme Court upheld Proposition 140. With those words, the best hope of lawmakers for political life everlasting flickered out; there would be no judicial reprieve from career-ending term limits imposed by voters in November 1990.

The Court's sweeping decision validated nearly every provision of Proposition 140, the brainchild of former Republican Los Angeles County Supervisor Pete Schabarum:

- It upheld term limits, with members of the Assembly limited to three terms or six years; senators, constitutional officers and Board of Equalization members limited to two terms or eight years.
- It agreed that Proposition 140 imposes a lifetime ban; once an elected official has "maxxed out" in a particular office, he or she may never again run for that same position.
- It upheld a provision that slashed the Legislature's budget by 40 percent.

In fact, the Court only overturned that part of Proposition 140 that eliminated the state legislators' pension system.

Legislature v. Eu was the nation's first judicial test case of state legislative term limits, and the California Court's decision adds impetus to similar efforts in other states. Although the decision will be appealed to the U.S. Supreme Court, the odds that a conservative U.S. Supreme Court will overturn a decision of the conservative California Supreme Court seems unlikely.

Term limits are not new to American politics. Some states limit the number of terms their governors may serve, and the 22nd Amendment to the U.S. Constitution has limited every president since Dwight Eisenhower to two terms. But until 1990 term limits had never been imposed on state legislatures. Last year, however, first in Oklahoma and later in California and Colorado, term-limit advocates were able to qualify ballot initiatives later approved by state voters. The California ballot boasted two different term-limit initiatives in November 1990.

With the success in California, term limits became more than a local cause; it became a movement that threatened to stride colossus-like across the country. Just last month, however, the movement suffered its first setback as Washington state voters defeated what would have been the toughest term-limit measure yet. Speaker of the House Tom Foley helped spearhead the drive to defeat Washington's initiative, arguing that term limits on members of Congress would permanently eliminate the state's ability to amass seniority — and, therefore, power — and put Washington at the mercy of other states. Opponents also played upon Washingtonians' dislike for things California, pointing out that term-limits was just one more Golden State import they could do

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Charles Price is a political science professor at California State University, Chico, and a frequent contributor to California Journal. *Helen Neves is a doctoral student in public administration at the University of Southern California.* *This article is a shortened version of a paper presented by Professor Price at the National Term Limits Conference, September 1991, hosted by the Rockefeller Institute, State University of New York at Albany.*

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Legislative wanna-b

Sitting legislators weren't the only ones whose futures were changed by the recent California Supreme Court ruling on Proposition 140, the term-limits initiative. The political aspirations of many legislative wanna-bes also may have ended when a six-to-one majority of the Court upheld the constitutionality of Proposition 140 last October.

In recent years, many of those wanna-bes have come from the ranks of legislative staff and others with years of behind-the-scenes training in Sacramento. Many of them intended to parlay their insider knowledge of state government into long-term careers as Assembly or Senate members.

But with Proposition 140 now firmly in place, with its limits on both legislative terms and budgets, that career path is rapidly losing its luster.

"Now," said David Takashima, chief of staff for Democratic Assemblyman Steve Peace of Rancho San Diego, "it doesn't make any sense to run for elected office."

That sentiment runs to the heart of Proposition 140, which was designed to evict incumbents and prevent would-be candidates from regarding a seat in the Legislature as the political equivalent of university tenure. Barring a successful appeal to the U.S. Supreme Court blocking term limits, 80 members of the Assembly and 40 members of the Senate will find themselves displaced in less than a decade.

While the Court has ruled that current lawmakers may keep their pensions, those elected in the future won't get that pork. That, says Takashima, is a financial burden too heavy for him to bear. "I have two young children to support, and eventually I want to send them to college," says the 41-year-old, 15-year veteran of the Legislature's staff. "Without a pension, I wouldn't be able to do that."

Lobbyist Bruce Pomer, a former candidate for the Sacramento City Council, says he also has changed his mind about vying for a seat in the Legislature. Pomer, 42, who represents the Health Officers Association and is a community college trustee, last year considered launching a campaign for the Sixth Assembly District in Sacramento, now held by Democrat Lloyd Connelly. Pomer has since abandoned the idea.

"Proposition 140 wipes out any interest I'd have in running for office," he said. "I thought by some time in my career I could devote my life to public service. But you don't get good at something unless you're there for a while."

In ruling Proposition 140 constitutional, the California Supreme Court declared that it sought to "protect against entrenched, dynastic legislative bureaucracy." Sacramento consultants, however, say the Court may have inadvertently slashed the pool of qualified candidates, abandoning the Legislature to those wealthy enough to dabble in politics as a hobby.

Eventually, these consultants predict, California's Legislature — made up of the marginally employed and retired — will resemble the one that existed before 1967, when Proposition 1A created a paid, fulltime governing body.

Chris Elliott is a writer with the California News Service, a project of the U.C. Berkeley graduate school of Journalism.

without. Thus, the defeat in Washington may not have stopped the term-limit movement, merely slowed it down.

Oklahoma, Colorado, California and Washington are in the vanguard of the term-limits movement because they are initiative states, four of the 23 mainly Western states where adopting laws and/or constitutional amendments is not the exclusive province of the legislature and governor. But the movement has not caught fire everywhere. Not surprisingly, it has exhibited little clout in non-initiative states or at the federal level since few legislatures would impose term limits on themselves. It also has not fared well in initiative states where there is no provision for putting constitutional amendments on the ballot, or where initiatives rarely qualify for the ballot. Elsewhere, however, the movement is full steam ahead, and term-limits proposals soon may appear on ballots in Oregon, Montana, North Dakota and Arizona. Once again, for good or bad, California is on the cutting edge of the latest political "reform."

Why the sudden interest in term limits?

For one thing, voter frustration appears to be at an all-time high, thanks to what seems like an endless chronicle of less-than-upstanding behavior by elected officials over the last several years. At the federal level, voters have endured the Iran-Contra hearings, the savings-and-loan and banking scandals, bounced checks and other congressional "perks," finessed pay raises, negative political campaigns and the sordid Clarence Thomas Senate confirmation hearings, among other things. At the state level, voters have been deluged with FBI sting investigations in a number of states that have uncovered considerable official corruption. In addition, partisan gerrymandering has produced professional state legislatures that are often wasteful and overstaffed. In California, the Legislature frequently is gridlocked by free-spending special interests unwilling to compromise. Thus, an increasing number of complicated issues are presented to voters via ballot initiatives. All this has helped to produce a growing anti-incumbent mood among the electorate.

Sensing this mood, national organizations such as Americans to Limit Congressional Terms, Citizens for Congressional Reform and Americans Back in Charge have taken an active role in promoting term limits as a viable reform. While these groups strive to present a bipartisan image, conservative Republicans are often their mainstays. Term limits, Republicans believe, is their best hope to wrest control of Congress and other state legislatures from Democrats.

Thus far, the impact of term limits in Oklahoma, California and Colorado has varied. In Oklahoma, political scientist Gary Copeland says that most Oklahoma legislators have given little thought to their term cap because they may serve up to 12 years, which means they may stay in office until 2002. Also, the Oklahoma Legislature is part-time and non-professional, so most lawmakers serve only a few terms

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ay, "No, thanks!"

By Chris Elliott

"It's asking a ot of these candidates to take six years off, and then to have them rebuild their business after that," said Jon Kaufman, executive vice president of Solem and Associates, a San Francisco-based consulting firm. "I think Proposition 140 will discourage interest in public service and good government."

Maybe yes, maybe no. But the possibility that the pipeline of Sacramento-savvy candidates could run dry has some insiders worried.

"Where will tomorrow's legislators come from?" said Bob Schmidt, a public relations consultant in Sacramento. "It's a legitimate question, and it's a cause for grave concern."

One theory holds that local office will once again become the most important route to the Legislature. "You're not going to have the youngish, 30s, Sacramento-trained people running for office any more," says Tony Quinn, a political consultant for Braun Ketchum Public Relations and a former Republican legislative staffer.

In addition, Quinn and other consultants say, members of school boards, city councils or supervisorial boards — particularly women — who never aspired to more ambitious office before term limits are now likely to see a stint in Sacramento as an option.

Anecdotal evidence suggests, however, that neither local officeholders nor legislative staffers who want to take advantage of the legislative housecleaning are prepared to commit themselves just yet. Their reluctance, of course, is only compounded by uncertainty about reapportionment as the courts and the Legislature struggle over where new district boundaries will be drawn.

"Proposition 140 might give me a reason not to run now and see what comes up in the future," said Hunt Braly, 36, chief of staff for GOP state Senator Ed Davis of Chatsworth. In 1990 Braly challenged incumbent GOP Assemblywoman Cathie Wright but lost in the June primary.

Because term limits give would-be candidates a fighting chance against the better-established incumbents, Braly says Proposition 140 is healthy in principle. At the same time, he adds, "It makes it easier for someone in my position not to run now because I know the opportunity will be there again."

Kim Mueller, a member of the Sacramento City Council, says she is in no hurry to trade her council seat — which is not subject to term limits — for one in the Assembly.

"At this point, I'm going to wait," she said. "If I were to run, I'd take a good, long look at it."

Mueller, 34, a former volunteer and member of the city's toxics commission, says she does not regard politics as a way to pay her bills and, as a result, is not dissuaded by Proposition 140.

"I don't dream of being in office all of my life," she said.

Nor does Sacramento City Councilman Josh Pane. After his first term on the council ends, he said, he may seek a seat in the California Senate regardless of Proposition 140.

"If you're successful before you go in, you'll be successful when you get out," said Pane, 32. "The system needs revitalization. It needs new blood. I think Proposition 140 is worth it."

anyway. Colorado (and Washington, had it passed) limits not only state elected officials but congressmen as well. Moreover, in Washington term limits would have applied retroactively. Thus, House Speaker Foley could have run for only one more term (1992-94) before being forced to retire. That provision gave Foley and other opponents plenty of ammunition in their successful battle to defeat the initiative. One legal question that federal courts may someday be asked to resolve regarding term limits involves congressional seniority. Since seniority is critically important in Congress, do congressional term limits in some states violate citizens' equal protection?

In California, the impact of Proposition 140 is already being felt even though term limits themselves will not take effect on present incumbent legislators until 1996. A number of legislators have been scouting out other occupations. For example, former Assembly Speaker pro Tempore Mike Roos of Los Angeles left last spring to head up an education-reform consortium in his home city. Others are casting covetous eyes toward Congress. To that end, for the first time in several decades Democratic legislative leaders did not allow senior Democratic congressmen to draw the lines of congressional districts. Legislators reserved that right for themselves, mostly to suit their own ambitions rather than protect incumbent members of Congress.

"It would be naive to think that many are not eying new congressional seats [to escape] term limits," said veteran state Senator Bill Craven, a Southern California Republican.

In addition, the legislative budget reduction of nearly 40 percent has already meant that scores of staff have been eliminated or have retired early in order to receive a generous severance payment. According to some observers, legislative staff has been seriously compromised by the exodus. As Senate Republican leader Ken Maddy noted: "It is my opinion that the political hacks on the staff of legislative leaders should have been the first to go. They would not be missed." Unfortunately, political operatives remained on staff for the most part. Those who left tended to be nonpartisan technical staff.

Proposition 140 also affected all constitutional officers except for the new elective position of insurance commissioner and state judges. For the most part, Proposition 140's limits on these officials will have a relatively minor impact on governor, lieutenant governor, attorney general or controller because there has always been an unofficial two-term tradition for these offices. Only rarely has an incumbent in one of these postions served more than two terms. (An exception is Lieutenant Governor Leo McCarthy, re-elected to a third term in 1990). However, less-visible officials such as the secretary of state, treasurer or members of the Board of Equalization will be affected because incumbents in these offices sometimes hold office for extended periods. For

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instance, Secretary of State March Fong Eu has held office since 1974.

In order to better understand the future impact on the California Legislature of Proposition 140, legislators were surveyed on their attitudes toward this initiative. In all, some 34 legislators (about 30 percent) responded. Whether the 34 legislator respondents were representative of the general membership generally is problematic. It is probably true that those who despised the initiative were more likely to respond than supporters of the measure. Nevertheless, the size of the sample assures a diversity of views on the subject.

• In the November 1990 general election did you support, oppose or remain neutral on Proposition 140?

	Supported	Opposed	Neutral or ?
Democrats	0	19	0
Republicans	2	7	1
Independents*	0	5	0
Total	2	31	1

(* Senator Quentin Kopp is the only independent in the Legislature, although he may be joined by Senator Lucy Killea, who has left the Democratic Party and will be running as an independent in the 1992 election. Several other legislators returned their questionnaires anonymously and did not want to be identifed personally or by party. They have been listed as independents.)

Not surprisingly, the overwhelming majority of California legislators opposed Proposition 140 and campaigned actively against it. Several legislators did not publicly oppose it because they were afraid voters would take it out on them at the polls or because, as Senator Kopp put it, "It would have been self-serving to [publicly] oppose it."

Republican Craven opposed the measure, saying that it was vindictive. He said that Proposition 140 "places legislators in the same category as felons. In their case, they have a prohibition from running, and we are prohibited for life for running for the same office."

Democratic Senator Mike Thompson said Proposition 140 was not needed because California already had term limits — "elections." Veteran Republican Assemblyman Stan Statham argued, "[under Proposition 140] you'll have two kinds of legislators: those who are learning and those who are leaving." Taking the opposite view, Republican Assemblyman Chris Chandler contended, "The only way we have of moving away from a fulltime, life-term Legislature is by the artificial means of term limitation."

Most legislators surveyed were convinced that Proposition 140 would lead to considerable internal turmoil because members will lack experience, and the massive constant turnover will make it impossible for the Legislature to work effectively.

Said Democratic Assemblyman Sal Cannella, "If we have nearly 80 new people showing up in the Assembly on the 6th of January 1996, nobody will know what they're supposed to do. There will be no continuation of government. There will be no understanding of policy or legislative tradition. What are the rules? Who is going to be the speaker or the committee chairs?"

Many legislators emphasized that it take time to learn the legislative job. Maddy stated, "It takes four to five years in the Senate before you become a truly effective senator."

Echoing this theme, Democratic Assemblyman Rusty Areias noted: "This is a pretty complicated place — a $55-billion dollar budget, 128 different departments and agencies. [New legislators] may be able to get a few things done in their second term, and then in their third term they'll be looking around for another job."

Added Assemblyman Statham, "Only legislators who have been here awhile can stand up to the special interests."

Democratic Assemblyman Ted Lempert noted: "One of the first things I did when I first came up here was to look for members I could trust on certain issues....I wonder if I were coming here in 1996 as a new legislator, who could I turn to in the Legislature? Would I have to turn to someone in the administration?"

However, Chandler felt that expertise was overrated. "I think if we had more legislators listening to what the people want, we'd be a lot better off. Name one thing these expert legislators have come up with over the last 10 years."

Proposition 140 wasn't the only term-limit proposal last November; there was also the less-Draconian Proposition 131, a campaign-finance/term-limits initiative authored by former Democratic Attorney General John Van de Kamp.

• Did you support, oppose or take no position on Proposition 131?

	Supported	Opposed	Neutral or ?
Democrats	4	11	4
Republicans	3	7	0
Independents	2	1	2
Total	9	19	6

While there was greater support for Proposition 131 among legislators, most were strongly opposed to it as well. Its only senatorial proponent, Senator Killea, stated, "I wasn't seeking a lifelong career." While agreeing with the concept of term limits, Killea felt those imposed by Proposition 140 were too short.

"Term limits of 10 to 15 years would allow enough time for sufficient experience and would provide for more gradual changes in the members of the legislative body," Killea said.

• If Proposition 140's term limits had been in effect when you first ran for the Legislature, would you still have run?

	Yes	No	Neutral or ?
Democrats	9	7	3
Republicans	5	4	1
Independents	4	0	1
Total	18	11	5

Most legislators conceded that even if Proposition 140 had been in effect when they first ran for the Legislature, they would have run anyway. However, a substantial number indicated they wouldn't have sought legislative office.

"It was hard for me to leave the security of the attorney general's office," said Democratic Assemblyman Xavier

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Becerra, who was elected in 1990.

Said Democratic Assemblywoman Delaine Easton, "I was working for a large corporation, and it would have been difficult to sacrifice the benefits and ladder-climbing opportunites for a dead-end job."

Blue collar legislator Sal Cannella noted: "I worked in a factory for 30 years before I came here. I had to give up everything when I was elected. I don't go back and pick up the 30 years of seniority I had in that job... People who own businesses or are in the professions can put those positions on hold and go back to them after they leave the Legislature. Those who favor Proposition 140 keep talking about bringing back a citizen-legislature. That's baloney. The citizen is the blue-collar person working in a factory, driving a bus or teaching school and they can't just go back to their jobs again after serving in the Legislature."

• Do you think that term limits will mean a reduction in the quality of people running for the state Legislature?

	Yes	No	Neutral or ?
Democrats	9	6	4
Republicans	2	3	5
Independents	1	1	3
Total	12	10	12

While there was sharp disagreement whether there would be fewer quality legislators in the post-Proposition 140 Legislature, many lawmakers were convinced that, as Senator Thompson put it, "There will be more wealthy people running for office because they can afford it, or retired [people] because they have the time."

Democratic Senator Barry Keene thought there would be fewer lawyer-legislators. However, Maddy predicted that private institutions such as utilities, banks, labor unions and possibly law firms will furlough people to run, thus having "their representative" in office. On the other hand, Republican Senator Marian Bergeson, who opposed term limits, said, "It would give more women a chance to get elected."

• Under Proposition 140, will the Legislature have more difficulty being a co-equal branch with the governor?

	Yes	No	Neutral or ?
Democrats	18	0	1
Republicans	7	3	0
Independents	2	1	2
Total	27	4	3

Most legislators were convinced that the Legislature would have greater difficulty standing up to the governor under Proposition 140. A few disagreed. Kopp, for instance, argued that "both legislators and governors face term limits under Proposition 140. Power will not inevitably flow to the governor and his administration." Several legislators contended, however, that to be effective as a co-equal branch, the Legislature must speak with a collective voice. But, they warned, this will be difficult with virtually no experienced legislators.

• Under Proposition 140, will the Legislature be more dependent on lobbyists?

	Yes	No	Neutral or ?
Democrats	18	0	1
Republicans	7	2	1
Independents	5	0	0
Total	30	2	2

Clearly, legislators were convinced that lobbyists who comprise the "third house" would become more influential under Proposition 140. As one legislator put it, "There are no term limits on lobbyists." And, because the Legislature is short-handed on staff, some lobbyists are already stepping into the breech by assuring legislators who "carry" their bills that the lobbyist will do all the mundane details — contacting members of the appropiate committees, furnishing expert witnesses at hearings and resolving conflicts. Although senior lobbyists will be forced to get to know the new "revolving-door" legislators, Craven noted: "Absent competent, experienced staff, the members of the Legislature must depend more heavily upon third-house information to get a grasp on the matters at hand. We will have less opportunity ... to give total analysis and research to the issues in an objective manner."

However, Chandler disagreed, saying, "This all fits into this terrible, trite, knee-jerk, business-as-usual mentality that is unfortunate. If every legislator voted as if this were his last term, this would be a better and more responsive place."

• Was reapportionment complicated this year by Proposition 140?

	Yes	No	Neutral or ?
Democrats	17	1	1
Republicans	5	3	2
Independents	2	1	2
Total	24	5	5

Most legislators agreed that Proposition 140 complicated reapportionment this year because so many state legislators were interested in running for Congress to avoid term limits. Statham noted, "For the first time in California's history, assemblymen and senators are more interested in drawing congressional lines than state legislator lines." Clearly, too, all elected officials higher up on the political foodchain will have to be warier in coming years. The ambitious below them — who, in the past, may have been content to move up the legislative ladder — may now feed their ambitions by challenging incumbents.

Craven summed up legislators' views of Proposition 140's impact by quoting Alexander Hamilton: "Nothing appears more plausible at first sight, nor more ill-founded upon close inspection." Added Craven, "When you limit a term, you also limit the interest and the feeling of responsibility in the elected official. I believe the public is best served when they hang the proverbial Sword of Damocles immediately above the legislator's temple. Legislators, in turn, then very obviously recognize that if they do not perform appropiately, the electorate will cut the cord."

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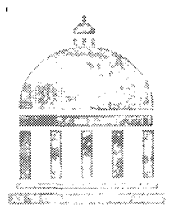

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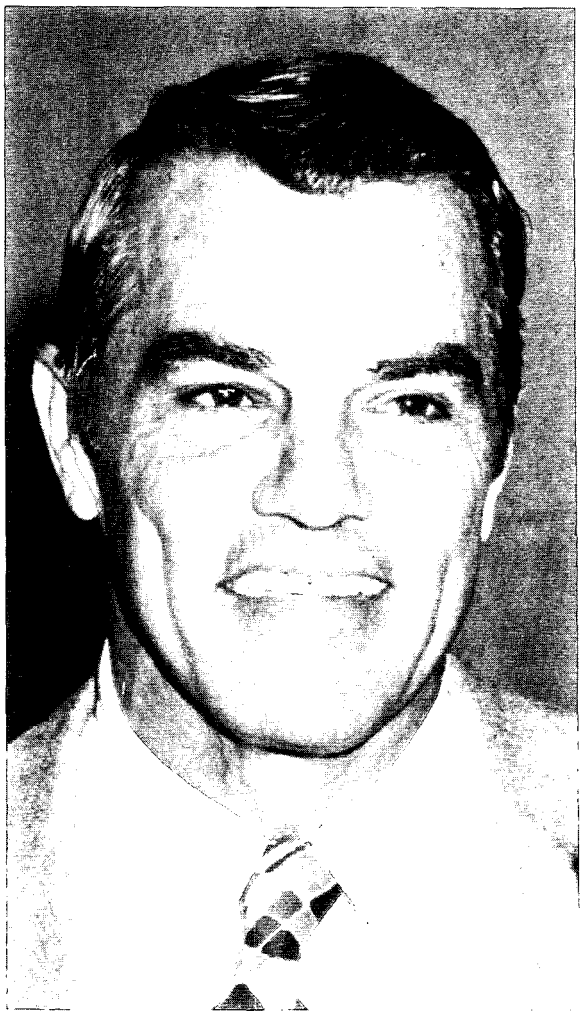
PROPOSITION 140

Pete Schabarum's parting shot

By Tom Waldman



Pete Schabarum is not a gracious winner. Three weeks after the California Supreme Court ruled in his favor on the question of term limits for legislators, Schabarum described the men and women in Sacramento as "small-minded," "arrogant" and "hotdogs." During the same 45-minute interview, the former Los Angeles County supervisor and assemblyman called long-time legislative staff members "turkeys and dumbos." Unlike Ronald Reagan, who throughout his 20 odd years in politics used quips and wisecracks to separate himself from what has come to be known as "the process," Schabarum genuinely destests most politicians.

But his inpolitic remarks and abrasive posture helped ensure victory for Proposition 140, which was approved by 52 percent of California's voters in November 1990 and affirmed by a six-to-one vote of the justices 11 months later. (The legal team opposing Proposition 140 has promised an appeal to the United States Supreme Court). Though an elected official for 24 years, Schabarum came across as the guy in a bar bitterly complaining about how those bastards in power are screwing the people. Radio talk shows and newspaper editorial boards could not get enough of him.

He not only captured the public mood, he embodied it. If Willie Brown was King George III, Pete Schabarum was Thomas Paine. A retiring politician's ultimate act of revenge against his colleagues has been transformed into a popular revolution that is now sweeping the country. Voters in Colorado, Oklahoma and California have approved

Tom Waldman is a freelance writer from Los Angeles and a frequent contributor to California Journal.

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various term limit initiatives; supporters of the idea in 20 other states hope to place their own propositions on the ballot as soon as possible.

Only in Washington state has the idea been turned down by voters after a scare campaign aimed directly at — ironically enough — California. Term limits on Washington's congressional delegation (including Speaker of the House Tom Foley) would, so the argument went, give California more clout and thus a license to steal such things as water from cloutless Washington.

But many observers see the movement gaining momentum in spite of Washington (see story, page 547). In an era of $300 billion federal budget deficits, swollen state bureaucracies, political scandal and entrenched incumbents, term limits are as inevitable as President George Bush's travels to foreign countries. The 62-year-old Schabarum got out of electoral politics at the right time.

Proposition 140, which restricts Assembly members to three two-year terms and state senators and statewide elected officials to two four-year terms, needed Schabarum's hostility, media access, fund-raising abilities, and existing campaign war chest to win. But it also needed the legacy of Howard Jarvis.

Lee Phelps, Mike Ford and Lewis Uhler — the three other members of the quartet that ran the term limits campaign in California — are all veterans of the tax revolt that the now-deceased Jarvis launched around 1977. Indeed, term limits can best be understood as the latest act of a still-vibrant political movement that has outlived its creator.

"We supported efforts to reform campaign financing in California," said Phelps, founder and chairman of the 11-year-old Alliance of California Taxpayers and Involved Voters. "Each time we lost, we saw Willie Brown and David Roberti chortle with glee that they had conned the voters again."

This running battle between politicians and the groups that have pledged to fight big government and tax increases has continued unabated in California for 15 years. The mostly middle-aged men and women on the outside have made the time and effort to fight powerful incumbents with whatever it takes. They have emerged as a highly efficient political force that other groups in the state would do well to emulate. Gay rights demonstrators can throw oranges at Governor Pete Wilson because he vetoed Assembly Bill 101, but that won't get the measure passed next time. From the beginning, the Jarvis people learned to match anger with action.

By 1986 — eight years after the passage of Proposition 13 — a number of anti-tax crusaders had begun discussing the idea of term limits. They wanted to make politicians suffer for supposedly "violating the spirit of 13."

"The legislators were fighting every inch of the way to get around measures to limit spending," said Uhler. Running a sympathetic slate of candidates was not an option: The combination of favorable reapportionment plans, low voter turnout and lots of cash on hand virtually assured incumbents their continued presence in the Capitol. As Phelps pointed out, campaign finance reform measures had failed. They decided to work for an initiative that would eventually throw Brown, Roberti and the rest of them — Democrat or Republican — out of office.

In 1989 Phelps arranged for an afternoon discussion of term limits as part of a larger conference sponsored by his anti-tax alliance. "Instead of the 10 to 12 people I had anticipated, 35 showed up," he said. A session planned for two hours stretched to 10. "What came out of that meeting was a broad-based coalition of Democrats, Republicans, Libertarians and independents," recalled Phelps. They called themselves Operation Broom Sweep, which somewhat awkwardly conveyed the message that the time had come to sweep the old guard out of Sacramento.

At that point, Uhler and Schabarum, not yet officially aligned, were separately promoting the idea of returning to a part-time Legislature. Uhler wanted any term limits initiative to include a provision that legislators — and members of Congress — could not remain in session more than six consecutive days each month. For the remaining three-and-a-half weeks, they would presumably stay away from the temptations of Sacramento or Washington and make an honest living in the private sector.

Schabarum's involvement was a blessing for Operation Broom Sweep and Uhler's group, both of which had plenty of enthusiasm but relatively little money to contribute and no fame to exploit. The Los Angeles County supervisor, who did not officially step down until early 1991, was known throughout Southern California as an irascible and mean-spirited member of the board. Yet what seemed cruel in the context of severe budget cuts took on a new meaning when aimed at the Legislature. Democrats who had always hated Schabarum's politics but liked the idea of terms limits now joined his cheering section. "He calls them as he sees them," said Phelps. "He occasionally puts his foot in his mouth, but he comes across as sincere."

In the summer of 1989, Ford, Phelps, Uhler and Schabarum began holding strategy sessions in Los Angeles. Uhler was quickly persuaded to drop the idea of a part-time legislature, but it was harder to convince Operation Broom Sweep that any term limits initiative must not be retroactive. Phelps' group wanted time already served to count against the legislators. Constitutional scholars retained by Uhler and Schabarum warned, however, that the courts would throw out the entire measure if it included that provision. It was agreed by the others that the proposition would apply only to legislators elected or re-elected on or after November 6, 1990.

The initiative also called for a reduction of the Legislature's operating budget by $70 million and abolished the lawmakers' pension system, while allowing them to retain benefits already earned. (The state Supreme Court overturned the provision covering pensions in its October 1991 ruling.)

A disappointed Operation Broom Sweep broke away and campaigned for a more punitive proposition. After three months, however, the group returned to the fold. "Novices in the initiative field think that if you have a good idea, all you have to do is go out to the street corner and let people know about it," said Phelps. "But there is a lot more to it than that."

The Sacramento-based Uhler, Phelps, who lives in the Central California community of Aptos, and Schabarum exchanged many faxes while writing and rewriting the final initiative. Schabarum subsequently contributed $650,000 from his own campaign funds — which among other things was used to hire a firm to gather signatures — so that the initiative would qualify for the November 1990 ballot. The group just did manage to collect the necessary 940,000 signatures by the deadline of May 1990.

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By then many California voters had become aware of term limits. Not only had Proposition 140 qualified, but Attorney General and Democratic gubernatorial candidate John Van de Kamp was the author of a different, less stringent measure that would also be voted on in November. Media around the state took notice: Talk show hosts and editorial writers correctly grasped that term limits — like congressional pay raises — were an ideal subject for populist commentaries. And the Legislature, understandably aroused by the prospect that long-term politicians could become obsolete, began to fight back. Outside of those few legislators who dared endorse Proposition 140, others raised money for its defeat. Schabarum countered by going to his familiar contributors, and some new ones as well. It was both easier and more difficult to raise money for term limits than a Pete Schabarum re-election campaign. The concept itself had great appeal, but potential contributors feared the wrath of vengeful politicians. "Most of them had occasion to do business with the Legislature," explained Schabarum, "and they knew — or felt — that to be identified as supporting 140 was a good way to get themselves in deep trouble." When they gave, he added, they tended to do so quietly.

Schabarum estimates that he raised some $550,000 for the campaign between June and November 1990. A Washington-based group called Citizens for a Sound Economy contributed another $300,000. The money went for a media campaign primarily conducted over the radio. For his part, Phelps coordinated a statewide army of volunteers out of a small office in Aptos.

Californians have become so disgusted with their politicians that the Proposition 140 campaign did not have to look hard for a gripping theme. "We wanted to keep pointing out to the voters what a sorry job the Legislature was doing," said Schabarum. In his speeches and media appearances, Schabarum would specifically cite the highly publicized FBI sting operation as an indication of the way legislators do business in Sacramento.

Schabarum tried to disarm his critics by admitting from the outset that he benefited from the same system he now sought to dismantle. A year later he summed up his approach this way: "If somebody wants to call me a hypocrite, be my guest."

And they did. The 140 campaign, however, wanted to make the entire Legislature the issue, not one or two easy targets. "We mostly stayed away from personalities," said Schabarum. The campaign adopted this strategy in part to refute anticipated charges by Willie Brown that 140 was a racist initiative designed to curb the power of the speaker of the Assembly because he is Black.

Five days before the election, the campaign's own surveys showed a 69 percent approval rating. Phelps said the comparatively small margin at the polls (52 percent "yes") reflected lingering confusion between 140 and the Van de Kamp initiative. Still, the victors believe they have a strong mandate to keep going.

The question is, what direction? Schabarum, who raised $250,000 to help defer the fees of the Pacific Legal Foundation — the Sacramento-based legal aid foundation that argued 140's case before the California Supreme Court — hopes to gather enough signatures for two term limits initiatives on the November 1992 ballot. One would apply to members of Congress; the other would be aimed at supervisors in counties where the population exceeds 500,000. "It's easier to defeat supervisors at the polls in smaller counties," explained Schabarum. He has formed two nonprofit corporations — Foundation for Citizen Representation and Citizens for Term Limits — to solicit contributions for this new effort.

Phelps, who has monitored initiatives across the country, believes that only a constitutional amendment can legally limit the number of terms served by members of Congress.

"I don't think attempts by states to unilaterally impose term limits on their congressional delegations will withstand scrutiny when it gets to the U.S. Supreme Court," he said. Instead, Phelps wants to draft an initiative for the June 1993 ballot that would break the cycle of incumbency by changing the rules governing any election in California, state, municipal or otherwise. Under this proposition, voters would be given the option of choosing "None of the Above." If that "candidate" received a plurality, the flesh-and-blood contenders could not run for the office until a full term had passed. Meanwhile, a second election with a new field of candidates would have to be held within 90 days.

The term limits proponents are not easy to please. At this rate they will run out of elected officials to target by the middle of the decade. Before then, however, they should know if their movement has made a difference in state politics. "I will be very surprised if at least 30 members of the Legislature won't be there next year," predicted Schabarum. "I think we will be seeing a major exodus."

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College Savers: What's wrong with these claims?

Treasurer of the State of California

October 16, 1991

"...As a proponent of zero bonds, I would not argue that this instrument is subject to much wider swings in market value than current interest bonds. But this program as I have repeatedly stated, is designed for investors who intend to hold the bonds until maturity. This buy-and-hold intention eliminates any concern for market fluctuation.

Neither the program nor the investment vehicle will fail to perform if the design of the program is understood. Once a family determines how much money they need to invest upfront to pay for future college costs, parents are free from further investment decisions. The burden of reinvesting semi-annual interest from coupon securities in uncertain rate environments is eliminated. Market fluctuations are of no consequence. Investors can sit back and allow the program to work for them, carefree for the next eight to twenty years...." *Kathleen Brown*

By Peter A. Roberts, Chairman, College Savings Bank

Despite the Treasurer's assertions, long-term zero-coupon bonds* are highly speculative investments for college savers. Parents should avoid the use of zero-coupon bonds, which pay a fixed amount at maturity, to fund the uncertain price of tomorrow's college education.

A zero-coupon bond is a fixed-rate asset while the future cost of a college education is a variable-rate liability. Prudent money managers do not fund variable-rate liabilities with fixed-rate assets. Such a speculative investment strategy caused the demise, in part, of many S&Ls in the early 1980s. In fact, today Federal banking authorities deem any relatively heavy investment in long-term zero-coupon bonds to be an unsafe and unsound investment practice subject to supervisory action.

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There are many misconceptions about the safety of using zeros to save for college. Here are just two of the many reasons why zero-coupon bonds are the wrong choice for college savers:

Even a buy-and-hold strategy exposes the zero-coupon bondholder to market fluctuations.

When zero-coupon bonds are purchased to fund a child's college education, the college saver has to make assumptions about the rate of college inflation and future college costs. If the assumptions prove to be wrong, the family can be exposed to a significant risk of underfunding.

For example, if college inflation and interest rates abruptly rise by 5%, say from 7% to 12%, to levels seen in the early 1980s, then the family that purchased a 20-year zero for their newborn will have underfunded the child's college education by 60%.

Zero-coupon bonds are not "carefree" investments for college savers.

Investment decisions by zero-coupon bondholders have to be restructured in response to changing market conditions. College savers cannot just sit back and relax. Adverse market changes in college costs and interest rates can cause their zero-coupon investment programs to fail.

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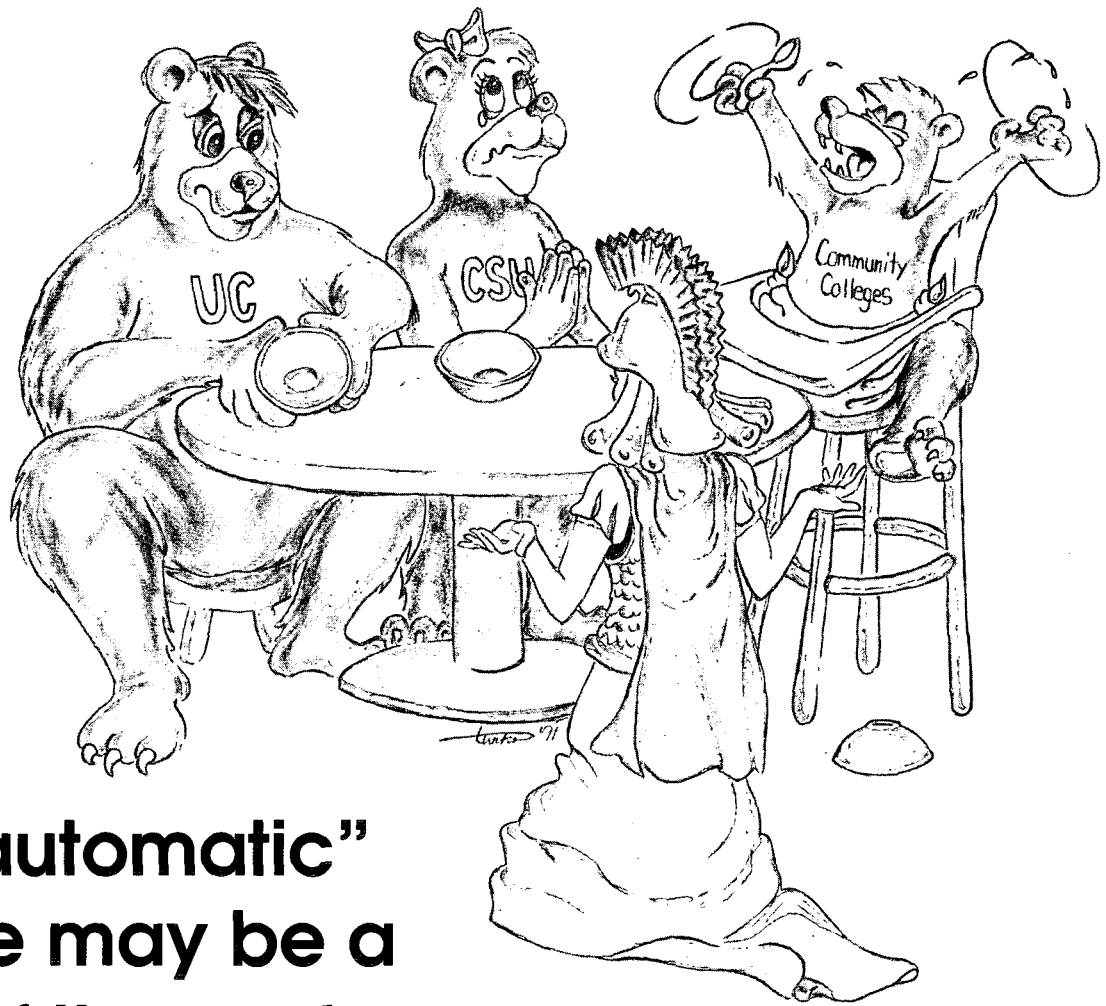

That "automatic" degree may be a thing of the past

By William Trombley

Crowded classes, canceled classes, higher student fees, faculty layoffs, students who can't get the courses they need to graduate on time, students who can't get classes, period. These stories have rolled in from across the state throughout the fall term on California's public college and university campuses.

While the immediate cause is the state budget crisis that led to spending cuts in both the University of California and California State University systems — and only a small increase for the community colleges — this year, the larger question is whether the state's 31-year-old Master Plan for Higher Education, with its promise of "higher education for all," is still viable.

Many believe it is not.

"There is a fundamental mismatch between resources and enrollments," said William Storey, an assistant director of the California Postsecondary Education Commission (CPEC). "Unless the budget situation improves, those [enrollment] numbers are going to have to come down."

Storey referred to recent CPEC projections that enrollment in the University of California will increase from 160,000 to 226,000 by the year 2005, that the California State University will grow from 375,000 to at least 495,000 and that community college enrollment will make an astonishing leap from 1.5 million to 2 million. David Mertes, chancellor of the statewide community college system, said even those numbers are conservative and that he expects enrollment in the two-year colleges to reach 2 million before the end of this decade.

While enrollments soar, state financial support for higher education is declining.

Warren Fox, new director of the Postsecondary Education Commission, which advises the governor and the Legislature on higher-education policy, noted that the percentage of state general fund revenues going to higher education (community colleges, CSU and UC) has dropped from 15.9 percent in 1984-85 to 13.5 percent this year.

That is why many believe a day of reckoning is coming soon for the Master Plan, especially for its promise of a place in a public college or university for every student who could benefit from higher education.

"The structure of the Master Plan will stay," former UC

William Trombley is a Capitol reporter for the Los Angeles Times.

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President Clark Kerr, one of the plan's architects, said, "but the question is whether the state will be able to fulfill the promise of higher education for all who want it."

To Barry Munitz, the new chancellor of the California State University system, the answer clearly is "no," not unless state financial support is increased.

A $60 million reduction in state funding for CSU this year has resulted in laying off or not re-hiring 3000 instructors, eliminating 868 non-faculty positions and wiping out more than 3800 class sections this fall.

If there are more actions like this, Munitz has been telling audiences around the state recently, CSU will not be able to accept the top one-third of California high school graduates — its assignment under the Master Plan.

"We cannot continue to bear a greater and greater burden without fundamentally affecting the quality of the education we deliver," he said.

Although the University of California is not as dependent as CSU on state funding — only about 30 percent of the total UC budget comes from the state, with federal research grants and contracts, student fees and private gifts accounting for most of the rest — the nine-campus UC system still was hit hard by this year's budget cuts. Only by raising student fees a whopping 40 percent and persuading some 4000 faculty and staff members to take early retirement was UC able to avoid canceling class sections this fall.

But outgoing UC President David Gardner said drastic measures such as these cannot be repeated. He warned that UC would begin to deny admission to eligible freshmen (the top 12.5 percent of the high school graduates) if budget cuts continue and if the state is unwilling to pay for a new campus in the San Joaquin Valley.

Some education specialists in Sacramento argue that there is room for UC to expand on several existing campuses, especially at Irvine and Riverside. But Gardner insisted that most UC campuses already are at full capacity or face strong community opposition to expansion.

"We can't build up existing campuses," the UC president said. "Berkeley [current enrollment: 30,500] can't grow to 45,000; Santa Cruz [currently 10,300] can't go to 30,000. Even at levels we think are reasonable, we've had trouble with our communities."

Gardner said he will ask Governor Pete Wilson and the Legislature "if they want to build the tenth campus or not; and, if the answer is 'no,' then I will say, 'All right, under those circumstances, we will not be able to offer a place to all the eligible students seeking admission.'

"'Now you tell us what you are willing to pay for. Should we take just the top 10 percent of high school graduates? Or 8 percent or 7 percent, or what? This is a public policy question that the state of California must answer."

The state's community colleges, which have been the entry point to higher education, as well as to occupational training, for vast numbers of California young people (and some not so young) face even more serious problems than either UC or CSU. If enrollment jumps by half-a-million students over the next decade or so, as is predicted, almost all of the existing 107 two-year colleges will be filled to capacity and 25 to 30 new campuses must be built.

Where will the money come from to build them? Or to operate them, once built? No one knows.

Mertes, the statewide community college chancellor,

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said there a ready are about 100,000 "unfunded" students in the system — students whose educations must be financed by local community college districts because state funds have run out. Typically, districts dip into their reserves to pay for unfunded students, which means that a single unexpected problem — a corroded gas line or an air conditioning system that fails — could drive a district into the red.

Mertes also complained of another Master Plan violation. He said many qualified community college graduates are unable to transfer to a four-year campus because there is no room for them.

Although UC and CSU still are able to offer a place on one of their campuses to every qualified transfer student, that place may be so far from the student's home and job as to make attendance impractical. Mertes called on each four-year campus to announce in advance how many transfer spaces would be available each year "so we don't waste our time and our students' time."

Even if problems like a shortage of transfer places could be solved, there is a growing feeling that the Master Plan cannot be patched and stitched together much longer and probably must be abandoned.

State revenues are running below estimates and another multi billion-dollar state deficit in 1992-93 seems probable. Even if the revenue picture were brighter, higher education still would be forced to compete with increasing demands for other state services, like Medi-Cal and elementary and secondary education.

"The future looks bleak," said Carl Rogers, education specialist in the state Department of Finance., "We don't know how we can afford it [i.e., the Master Plan]."

Maureen DiMarco, secretary for child development and education in the Wilson administration, said, "We may not be able to fulfil the Master Plan guarantees, and we ought to confront that very quickly."

Said Harry Wugalter, a member of the Postsecondary Education Commission, "The 'higher education for everybody' idea was developed under a completely different set of circumstances ... it was a great idea but we can't afford it anymore."

Some believe the plan's promise of a college education for all who could benefit from one already has been broken.

"Universal access is shot," said Patrick Callan, former director of the Postsecondary Education Commission and now a higher education consultant. "We're squeezing admissions requirements at UC, pushing more students into CSU, where they can't find classes, so they go to community colleges, where they can't find classes, either."

"In effect," Callan added, "the state is doing away with the Master Plan in a way that leaves no fingerprints."

Kerr said a basic assumption of the Master Plan was that state economic productivity would increase by at least an average 2 percent a year, but it has not done so. Nor, Kerr added, did those who drew up the plan foresee the huge increases that have come about in state spending for health, welfare, elementary and secondary education and prisons.

Between 1988 and 1998, state spending for debt service on state bonds will increase by 16.3 percent, prisons 11.1 percent and Medi-Cal 8.2 percent, but support for UC and Cal State will increase by just 5.6 percent, according to estimates prepared by the Postsecondary Education Commission.

With budgets tightening and the Master Plan in jeopardy, new approaches are being suggested.

"The Master Plan captured the imagination of the country and the world in the 1960s," Callan said, "but now it has become a straightjacket. There's room for a lot of creative thinking about how to move forward."

One of the questions that Callan and others have raised is whether the University of California needs to offer a complete range of graduate and professional programs on all eight general campuses (and on the new San Joaquin Valley campus as well). These critics suggest it would be more cost-effective for the university to concentrate many of its graduate and professional specialties on one or two or three campuses. They also believe the state cannot afford the $1 billion or more that a new, full-blown research campus in the San Joaquin Valley eventually would cost. They suggest that an undergraduate campus, with a few graduate programs, would make more sense.

But Gardner insisted that UC already limits the number of new doctoral and professional programs it initiates, and he suggested that in some fields, the university should be training more professionals, not fewer. For instance, he noted that less than 20 percent of the state's physicians have been trained at the five UC medical schools.

Gardner also defended the plan for the tenth campus, with the same full range of undergraduate, graduate and professional programs found elsewhere in the UC system.

"To assure access and quality, we cannot have what one might call one, two and three-tier institutions in the university," he said. "We know what our institution is and how it works and what it can do. Therefore, when we propose to add a tenth campus, we're not proposing a campus with a different mission."

"This is institutional hubris," Callan responded. "These people are saying, 'We're going to do things the same way we've been doing them for 45 years and, if anybody doesn't like it, that's just too bad.'"

Some have suggested the state could save money by requiring University of California faculty members to do more teaching. Typically, a UC professor teaches one or two classes each quarter or semester, while his counterpart in the California State University system teaches three or four. The rationale for the difference is that UC faculty members are expected to do "cutting edge" research as well. However, many UC officials acknowledge that some professors do little research at all, whether at the cutting edge or not, and don't teach much, either.

Former UC President Kerr said that when he served as chancellor of the Berkeley campus in the 1950s, he sought to determine the average faculty teaching load but soon found that "at the University of California, like other research universities, all of that happens at the level of the academic departments, where there are few policies and nobody keeps records." Kerr concluded that "it would be insanity for any chancellor, or president of the university, to try to do anything about this."

CSU faculty members also will be teaching less as the result of a new agreement between the faculty and the CSU administration requiring efforts to reduce the average teaching load from 12 units per semester to nine over the next three of four years.

Other changes that have been proposed in the state's higher-education arrangements include:

- Increasing the number, and the amount, of "Cal

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Grants," so that high school graduates may afford to attend one of the state's private colleges or universities instead of a public campus.

- Changing the ratio of upper-division to lower-division students on UC and CSU campuses from 60-40 percent to 75-25 percent so that more freshmen and sophomores could be educated at the less-expensive community colleges.
- Changing state financial incentives so that UC and CSU are rewarded for graduating students, not just for enrolling them. Only 30.5 percent of freshmen who enrolled at a UC campus in the fall of 1982 earned a degree in four years. At CSU, only 27.7 percent of first-time freshmen enrolling in fall 1983 earned a degree in five years.
- Establishing an expansion policy for all three segments — UC, CSU and community colleges — instead of allowing the three segments to lobby the governor and the Legislature for new campuses.
- Using some of the now-sizable pot of UC and CSU student-fee revenue to pay for educational programs, instead of limiting its use to non-academic programs and financial aid.

Mertes startled a meeting of community college chief campus officers a few weeks ago by proposing that the two-year schools dramatize their financial plight by limiting enrollment to students in pre-college or vocational training classes. This would eliminate thousands who come to community colleges to learn English and other basic skills. It would also mean that thousands of disadvantaged students in the state's major cities would be deprived of a chance to prepare for a four-year college or for a vocational career.

"That would be a disaster" in a district like Los Angeles, said Donald Phelps, chancellor of the nine-campus, 122,000-student system. "About 70 percent of our students are minority and many of them lack the basic skills needed for success in four-year colleges. That's why they come to us."

Phelps, who went to college after leaving the Army and began his teaching career at the age of 30, said, "I would have been one of the students eliminated by such a policy." He also warned that limiting access to public higher education just when minorities are beginning to attend in significant numbers would be unwise and dangerous for the state.

State Senator Gary Hart, a Santa Barbara Democrat and chairman of the Senate Education Committee, sounded the same warning. "If we cut back on the 12.5 percent [the UC admissions pool] or the 33 percent [the CSU pool], then all of these issues of affirmative action and ethnic diversity, which are so sensitive, will become even more so," Hart said.

Whatever is done to change the Master Plan for Higher Education will face strong institutional and political opposition. However, unless there is a miraculous change not only in California's year-to-year budgets but also in the state's underlying economic and social conditions, change surely is coming.

Things have gotten so bad, said DiMarco, Governor Wilson's education adviser, that "I have even heard people ask if we can afford to improve K-12 education. If we do, they argue, we'll collapse the whole higher education system because we'll produce more high school graduates and there won't be room on the campuses for them."

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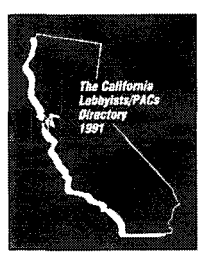

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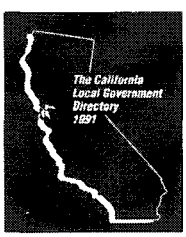

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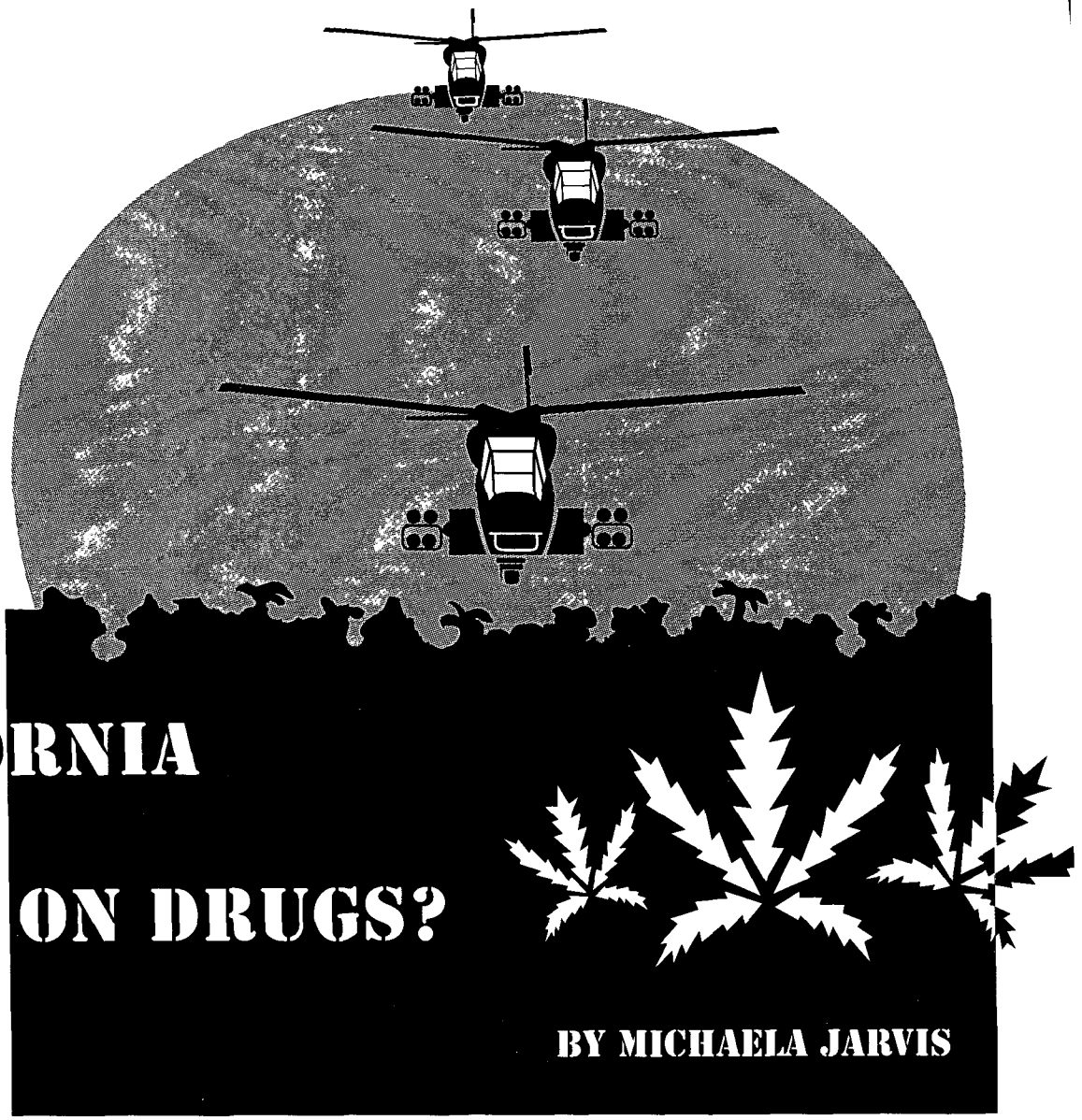

IS CALIFORNIA WINNING THE WAR ON DRUGS?

BY MICHAELA JARVIS

The federal Drug Enforcement Administration's last two sample heroin "buys" on the streets of San Diego turned up an alarming product — Mexican Black Tar heroin with a purity of 68 percent, a drug nearly 10 times more potent than the heroin that was available in the 1970s.

California continues to lead the nation in number of clandestine drug labs producing methamphetamine. Californians also consume more of the bootleg stimulant than residents of any other state, either snorting it or injecting it into their veins.

California's parolees — many locked into a pattern of recidivism that is threatening to overwhelm our prison system — are often sent back to correctional institutions for drug or drug-related offenses.

Despite an overall decrease in drug use, these three situations, and a seemingly infinite number of variations on a drug abuse theme, have won the state of California a unique status.

"If California were a nation, it would be the largest, most important polity among all the world's nations in terms of illicit drug abuse," says Dr. John Newmeyer, epidemiologist for San Francisco's Haight-Ashbury Free Clinics and one of the nation's leading drug experts. "[California is] ahead of even New York, Germany and Thailand. We should definitely regard ourselves as world class."

Throughout the 1980s, efforts to control drug abuse statewide were no match for the raging problem. State policies followed the federal government's lead of emphasizing law-enforcement crackdown (generally at about a 70-30 enforcement-to-prevention funding ratio).

"The previous [Deukmejian] administration had its heart in the right place, but in terms of really lessening the problem, all we were getting was lip service," says Susan Nisenbaum, manager of the research and policy analysis branch of the state Department of Alcohol and Drug Programs. "It was more of a supply-side focus. Governor Deukmejian was heavily into law enforcement, partially because of his own background in law enforcement as attorney general."

Even law-enforcement officials now admit that focusing on the criminal aspects of drug use doesn't effectively cut the demand that fuels the drug trade. In a 1988 speech, the U.S. Navy's chief of operations, Admiral Carlisle A.H. Frost, said that U.S. military and law enforcement combined could never bar entry to thousands of boats and small planes that

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Michaela Jarvis is a freelance writer living in the San Francisco Bay area.

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supply the state of California with cocaine and other drugs from Latin America.

But despite the opinion that law enforcement should be a secondary approach to drug problems, the tenor of many drug legislation initiatives in California continues to be law enforcement. Public outcry about drugs tends to call for increased public safety, which translates into more police rather than programs for abusers. According to Jack Gerowitz, a consultant to the Assembly Public Safety Committee, most legislation recently heard or being handled in interim hearings this fall has related to the criminal aspects of drug use.

At the same time, however, the Department of Alcohol and Drug Programs (ADP) has been stepping into a drug policy leadership role that emphasizes prevention and treatment, says Nisenbaum, who has been with the department since one year after its formation in 1978. The Governor's Policy Council on Drug and Alcohol Abuse —chaired by ADP's new director, Andrew Mecca — has been changed in the last few months to include more representatives of state social and health agencies, rather than law enforcement.

"When Andy Mecca inherited the department, I think the time was ripe to get very enthusiastic and very pro-active," says Nisenbaum. "I've never seen things move so quickly."

The flurry of activity is centered around an effort to coordinate drug programs of all kinds all over the state — a Herculean task from all accounts — involving agencies ranging from the California Highway Patrol to the state Board of Registered Nursing, agencies that are collectively spending nearly a billion federal and state dollars on a huge range of programs to combat drug problems. In certain remote, rural counties, drug control efforts may be focused on the seizure of hidden-away drug labs. In the inner cities, methadone programs for heroin addicts can receive major amounts of state funding. Individual programs obviously need to reflect the particular drug activity of the counties in which they are operated. However, without coordination, individual programs can waste time and money reinventing the prevention, treatment or enforcement wheel.

"We need to know what's going on in all the counties and with all the different programs," says Patricia Morgan, a UC Berkeley professor of public health who has been commissioned by the state to scientifically assess the success of drug programs. "The state of California has never really had a state policy before. "One thing the state can do is say what's working and what's not working, not to reduce county programs, necessarily, but to find out what's working and put money there. The purpose is, for the first time, to be able to make drug policy on a pro-active, rather than reactive, basis."

"It's an attempt to build systematic information gathering that could inform policy," says UCLA researcher Robert Valdez, who is doing a companion study to Morgan's. "In order to make good decisions, we need good scientific information. If good scientific information changes people's minds about what initiatives are needed, then we've done our job."

For instance, gaps in county services that are brought to light through this process of program assessment will affect the allocation of monies from the Office of Criminal Justice Planning, according to Glenn Johnson of that office.

As Morgan and Valdez move ahead with their studies, they will tend to look at the prevalence of the problems drug use engenders, versus the prevalence of drug use itself. According to the 1991 California Master Plan to Reduce Drug and Alcohol Abuse, the cost of drug and alcohol abuse to California is more than $14.4 billion annually. Much of that cost is attributable to California's "problem drug users," about 2.1 million people, or 7.25 percent of the state's population, according to a June 1990 report by the State Senate Office of Research.

"In reality, the policy of the '80s was, 'Let's reduce use,' which includes casual users," Morgan says. "But the problem with that is that most casual users never get into trouble on account of their drug use. It's a very small minority that is so fiscally crippling."

"The emphasis is off arresting every street dealer," says Bob Norem, who represents the state's chief probation officers. "Resources are becoming too scarce. If we're going to start getting the most bang for our bucks, we have to start kicking it up a level. We're going to get drowned if we try to put everyone who's a drug user in jail."

"Are we going to spend our time busting grandma and grandpa for smoking a joint?" asks Morgan. "Or, are we going to do something about the fact that a drug-addicted, pregnant woman has no recourse to treatment?"

Although treatment programs are by consensus the only way to truly staunch the hemorrhaging of the state by drug-related premature deaths, disease, lost employment, car accidents, crime, social welfare programs, AIDS and problems in infants, waiting lists for publicly funded treatment programs are long. According to the Department of Drug and Alcohol Programs, at the end of any given month, between 10,000 and 13,000 drug users wanting treatment wait to be included in the state's approximately 90,000 publicly funded admissions per year.

Treatment programs are particularly overcrowded in jails and prisons. According to Norem, 80 percent of people that get put on probation are substance abusers. However, it was only in collecting information for the state's coordination of services that Norem's county, Stanislaus, fully perceived its lack of services for high-risk juvenile offenders, who because of their age could probably most benefit from treatment.

(Drug use among youth has dropped in the last few years, but a sub-population of users of high-risk substances remains constant, according to Greg Austin of Southwest Regional Laboratories, which is contracted by the state to assess drug use.)

"Let's treat them at first contact, at first jail," says David Winett, Assistant Director of the California Department of Corrections (CDC). "If they're already headed to prison, they've been to juvenile hall, and they've been to fire-fighting camp, and then we haven't intervened where we could have. We all know that earlier intervention works better than later intervention. We need more treatment programs within the criminal-justice system, but state prison is probably not the best place to do it, because by then the problem is already well-established."

Winett says CDC's demonstration treatment programs within prisons are expensive, adding to the already high $22,000 a year it costs to house an inmate.

"We might instead spend $5000 or $6000 on a family counseling program for a 16-year-old. The payback on the could be extraordinary," said Winett.

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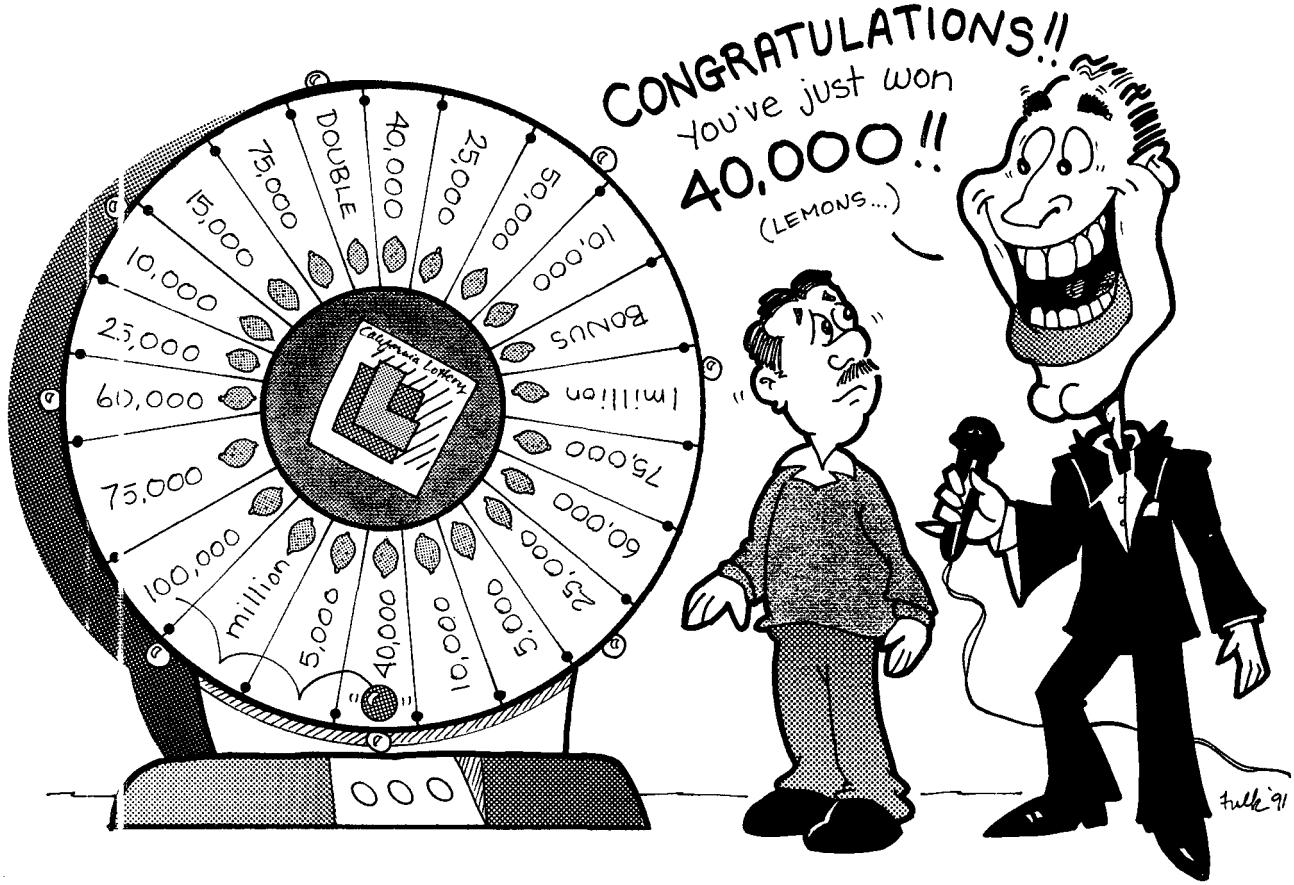

THE LOTTERY LEMON

Have Californians soured on their games of chance?

By Michelle Quinn

Like a lot of commercials these days, it is hard to figure out what the latest Lottery television ad is selling. Filmed in black and white with splashes of sporadic color, it features pages of a novel flipping in the wind, a woman laughing on a seesaw, an archer taking aim, a man approaching a house with flowers hidden behind his back and a cherry red ladybug crawling on a pair of gray hands. A cross between a Calvin Klein commercial and an MTV video, the ad could be selling anything from jeans to toothpaste, beer to candy bars. But a wispy male voice gives it away at the end: "Play Lotto and imagine."

A tasteful and subtle ad.

But the California Lottery needed more than subtle ads to revive its sagging fortunes. It needed a jolt. And a jolt is just what it received on November 14th when Lottery Director Sharon Sharp (see story, page 573) presented the Lottery Commission with a program for infusing new life into the games. Of the current

Michelle Quinn is a writer with the California News Service, a project of the U.C. Berkeley graduate school of Journalism.

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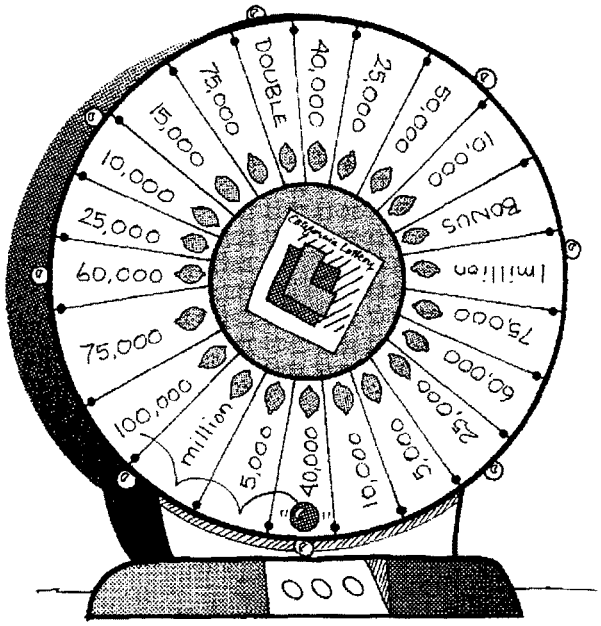
games, only "Scratchers" will remain; "Lotto" and "Little Lotto" will end in mid December, and "Disco" will end in April 1992. In their place will come "Super Lotto," where players who correctly choose six of 51 numbers can win multi-million jackpots; "Keno," where players can win million-dollar jackpots by correctly choosing combinations of numbers; and something called "Fantasy 5," where players pick five of 39 numbers and win jackpots that average up to $200,000. The goal of this revamp is to craft the games to appeal to all kinds of lottery players — from those who seek the big jackpot to those who like the small but instant prize.

Why the huge change? Because the California Lottery is in deep trouble.

In the Lottery world, where directors say without irony that they are in the business of selling dreams, sales have dropped below what anyone could have fantasized. Everything from the Persian Gulf War and the recession to changes in the Lotto game and governmental barriers unique to California have been blamed for the Lottery's plummeting sales. Public schools are bracing for a record low contribution to education during a time when money is already tight. And along with the sales, Californians' opinion of the Lottery has taken a nose dive.



In the fiscal year that ended June 30th, revenues were down 14 percent from $2.479 billion to $2.133 billion. Compare that to lotteries nationally, where the $20 billion dollar lottery industry increased sales 2.7 percent, according to Bill Bergman of the North American Association of State and Provincial Lotteries. But in contrast to an 8 percent growth rate in fiscal 1990 and 20 percent in fiscal 1989, the lottery

Chon Gutierrez: a troubleshooter's te

Chon Gutierrez, the outgoing California Lottery director, never thought the Lottery was a good idea. In 1984 he voted against Proposition 37 that brought the games to California. And after helping build the Lottery from the ground up since 1985 and serving as its director since 1987, Gutierrez said he would vote against it again.

Why?

Gutierrez, a California civil servant for 19 years, believes better ways exist to raise money for education. Don't get him wrong, though. He doesn't judge the Lottery harshly, he said. Since he has been its director, he, too, has been swept up in promoting Lotto fever.

"The Lottery," Gutierrez said, "is a socializing agent — a form of entertainment for millions of people. The Lottery is not a serious public-policy issue to the average citizen."

But Gutierrez, 46, doesn't see himself as an average citizen. Although he talks the talk of other Lottery directors who say lotteries aren't gambling *per se* but "actualizing your dreams," Gutierrez acknowledged he probably won't play the Lottery now that he can. (All of the roughly 970 California Lottery employees are forbidden by law to play the games.)

"I have a lifestyle that doesn't focus on luck. I am more rational," he said.

The first-born child of Mexican immigrants, Gutierrez's life is about hard work, not chance or overnight riches. Gutierrez was a welder for Southern Pacific Railroad when he was drafted and sent to Vietnam as an infantryman. Under the GI bill, he went to UC Davis to study history and considered being a history professor, even enrolling in a doctoral program. But he dropped out when he considered the college job market, he said.

A registered Democrat, Gutierrez immediately went to work as a troubleshooter in state government. He was bounced from jobs as a budget analyst in the Department of Finance to the Youth and Adult Corrections Agency, where he was an assistant agency secretary. At the Office of Economic Opportunity, Gutierrez was sent in 1982 to sniff out and expose the department's embezzlement scandal.

Gutierrez said that in 1985 when he was asked to help out with the Lottery, then-Governor George Deukmejian told him it would only be for 90 days.

He stayed for six years.

Gutierrez's ambivalence about the Lottery was in sync with the Deukmejian administration's own reluctance. The governor and other state politicians, such as Lieutenant Governor Leo McCarthy, then-Attorney General John Van de

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business nationally is clearly feeling the recession, said Terri Fleur, senior editor of *Gaming and Wagering Business* magazine.

Still California's drop in sales has surprised everyone, La Fleur said. So far this year, sales are only at 74 percent of where they should be, according to the Lottery's own admittedly conservative goals. That is especially bad news for education, which was supposed to be the Lottery's *raison d'etre.* Under the initiative voters approved in 1984, education receives 34 cents of every dollar taken in by the Lottery.

If purchases of Lottery tickets continue to slump, sales could drop to $1.47 billion. That translates to $500 million for education or $78 per student — a $300 million drop from last year's contribution of $804 million for education, or $129 per student. Taking into account that state education didn't receive a statutory 4.6 percent inflation adjustment this year — a whopping $1 billion dollars — the Lottery nose dive takes on a greater magnitude.

Enter Sharon Sharp, the Lottery's new executive director, and her plan to increase the number of prizes and retool the games to attract more players.

The problem with the Lottery is that, except for the ticket and machine vendors, everyone who is supposed to be happier because of its existence, isn't. There is so much dissatisfaction that Sharp eventually may have to figure out what she can change and what is beyond her control. Education leaders, prepared to get less, say the Lottery's existence works against their efforts to raise needed money. Retailers are upset with their declining sales, the awkardness of the machinery and their commission on tickets sold. Democratic Assemblyman Richard Floyd of Carson, the Legislature's only outspoken Lottery fan, criticizes the bevy of complicated games, the expensive marketing and the bureaucracy, which he calls the "Lottery's empire."

Above all this, the "playing public" has shown with its pocketbook that the games have lost their appeal. And the public in general has shown its discontent. In a recent California Poll, 49 percent of California's adults say they have a good opinion of the Lottery, a plunge from 1985 when 75 percent said they liked what was then a new Lottery.

Whether Sharp will be successful in boosting Lottery sales has yet to be seen. She is not just battling sales records and bleak quarterly reports but the Lottery's history in California, which is at the heart of the problems.

The story of the California Lottery's development is about the marriage of convenience between business interests and citizens' education concerns. The Lottery initiative was born out of the education crisis of the early 1980s caused partially by Proposition 13 reductions in property tax. It was oversold as a simple and effective financial solution to school funding, according to both Lottery officials and Lottery critics. In the ballot argument, the Lottery was supposed to provide $680 million to education annually, a goal which it has hit every year except the second year.

Business interests, which failed in a previous lottery campaign in 1964, pushed through the 1984 initiative. At least one business did. The 1984 Lottery initiative, Proposition 37, was virtually bankrolled by Scientific Games. A sub-

re at the Lottery

Kamp and Superintendent of Public Instruction Bill Honig never embraced the state-sponsored gambling. Of members of the state Legislature, only Democratic Assemblyman Richard Floyd of Carson supported the initiative.

With the understanding that the governor thought it was inappropriate for the state to run a gambling agency, Gutierrez only spoke to Deukmejian twice about the Lottery. So great were the governor's misgivings that when he directed Gutierrez to set up the Lottery, he asked only that it be kept clean and free of organized crime, Gutierrez said.

Critics charge that Gutierrez, who did not have a lottery or marketing background, built the Lottery as only a bureaucrat could do it. The Lottery has a five-member commission that meets once a month to approve suggestions, many of which then go to the state Legislature for final approval. The Lottery contracts out for its advertising, software development, machine and ticket vendors and many game designs, all of which critics cite as costly. The Lottery has 970 employees statewide.

To be fair, much of the Lottery's bureaucracy was set in place with the Lottery Act, which created the commission and dictates how the Lottery, as a state governmental agency, bids on creative services, according to Joanne McNabb, spokeswoman for the Lottery. Still, Gutierrez, with his bureaucratic background, is an easy target for the Lottery's ills.

"Nice man, but he probably listened too much to his staff. He didn't have a marketing background. He tries to make everyone happy," Floyd said.

Saying he tried his best, Gutierrez points to fiscal year 1989-90 when the Lottery sold $2.62 billion in tickets — the highest sales revenue ever in the history of lotteries nationwide.

Now out of the peculiar spotlight that comes with being a Lottery director, Gutierrez said he is happy to be moving on. He hopes to land an appointment to another governmental agency.

But what of the allure of lotteries?

Gutierrez said he has no desire to leave one state, as lottery directors do, to run another state's lottery. His kids are in Sacramento schools; his aging parents live within a mile.

"The lottery industry is a funny industry. It produces a lot of adrenalin and excitement. People get caught on that adrenalin," he said. "I have a wife, two boys and a lawn that is being invaded by crabgrass. They give me all the entertainment and adrenalin I want."

— *Michelle Quinn*

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sidiary of Bally Casino and makers of lottery tickets, Scientific Games made $2.1 million dollars 0n California lottery tickets last year, and G-Tech, a Providence, Rhode Island-based international lottery empire, made up to $23 million last year off of the machinery involved in the California Lottery.

But as the ugly stepchild of state politics, the Lottery was never fully embraced by California's elected officials. The Legislature and the controller's office retain a large degree of control over the nature of games and winnings that can be earned.

Despite governmental barriers, the Lottery has to make the games and, more important, make them fun. "Scratcher" games, which provide instant prizes, are regenerated every six to eight weeks. A player scratches off the latex to find out if he or she has won money or the grand prize to play the Big Spin on television, which could give you from $25,000 to $2 million. "Decco" is a daily draw game based on playing cards. Pick one from each suit and match cards drawn by the Lottery to win from $5 to $5000. "Decco" is being phased out next year.

But the big game, the game everyone cares about, is "Lotto." Players pick six numbers, and if the numbers they pick are also picked by the Lottery, they win the jackpot. The big jackpot. If no player picks the correct six numbers, the jackpot expands for the next Lotto game. And since Lotto is played twice a week (Wednesdays and Saturdays), the jackpot can grow enormous. Last April, for instance, it reached $119 million before 10 different people picked the correct numbers.

"We will never overcome our need for money as long as the Lottery is around."

— Susie Lang, Department of Education

But to get big jackpots like this one, the Lottery, in a controversial move in June 1990, changed the game and nearly doubled the odds to win. Instead of picking six numbers out of 49, a player had to pick six numbers out of 53. Thus, a player had a one-in-23 million chance to win, as opposed to the previous odds of one-in-14 million. Not only did the change make players less likely to win, but it made them frustrated with Lotto, said Floyd.

"These idiots increased the lottery almost double. You can play the thing but you can't get your lousy five dollars. People say to hell with this game," Floyd said. A bad feeling about Lotto trickles down to other games, he said. Lottery officials dismissed the notion that the changes in Lotto are the reason for decreasing sales. The new version, unveiled as "Super Lotto" and due to start on December 15th, is a compromise, with players picking six of 51 numbers. Odds for a jackpot are one-in-18 million.

One way to understand the Lottery is to look at where a dollar spent on a ticket goes. By law, 50 cents goes back to players in the form of prize money, 34 cents goes to education and no more than 16 cents may go to running the Lottery and paying retailers. For fiscal 1990, that 16 cents translated to $330 million. Of that 16 cents, about 6 cents ($131 million) went to retailers' commissions, 2 cents ($42 million) to ticket and machine manufacturers, 2.5 cents ($57 million) for advertising costs and 3 cents ($68 million) for administrative support.

Hoping to regenerate interest in the Lottery, Sharp wants to increase the 50 cents given back to players for Scratchers only, an idea former director Chon Gutierrez had been working on when he left. Compared with the other 33 states that have lotteries, California is among states with the lowest amount paid back to players for Scratchers. "Every other state has done this, and sales have increased 36 percent," McNabb said.

How does Sharp propose to give players more money? Although her November proposal did not call for it, she eventually aims to cut into the 34 cents going to education, as well as cutting one-fifth of the Lottery's operating cost by cutting advertising, performing staff layoffs and, as a last resort, slashing retailer commissions. Sharp wants to see $25 million phased out to make sure the Lottery stays within the 16 percent spending gap.

The cut puts educators in a peculiar position. On the one hand, they are furious at the prospect that their percentage ofthe big pie may be cut.

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"Tell the Lottery to cut it out of their percentage," said Susie Lang, spokesperson for Superintendent of Schools Bill Honig. On the other hand, school officials have never been comfortable about having their programs used to entice what they see as gambling. Leaders such as Honig and Maureen DiMarco, Governor Pete Wilson's education adviser, say that the Lottery creates a misconception that schools are rich, making it harder to generate public support for more money for education. "We will never overcome our need for money as long as the Lottery is around," Lang said.

While overall spending on education has gone up 13 percent since 1983, according to DiMarco's office, schools still find themselves hurting for money. "They started the decade under-funded and have not caught up yet," according to Jim Wilson, director of fiscal policy at the Department of Education. Money from the Lottery, which makes up 3 percent of education costs, was supposed to be just the frosting on the cake, for extras such as computers and after-school programs. However, educators say Lottery money has been used for teachers' salaries, making the schools even more vulnerable to the rise and fall of Lottery sales.

"Like a drug habit, the school districts are hooked on it," said Democratic Senator Ralph Dills of Gardena about the Lottery. A former school teacher, Dills is the chairman of the Senate Committee of Governmental Organization, which oversees all bills meant to change the Lottery. "To assume that the Lottery is going to help the schools is to fool the public and make them mad at the school," he said.

"It takes the proceeds of 1450 Lottery tickets to buy one microscope for a high school chemistry class," said Honig.

Retailers also are unhappy with the Lottery. Cissy Shinn, manager of Oakland's Merritt Restaurant and Bakery, said she has the Lottery in her store "as a convenience to customers." She hasn't seen any difference in her sales, even on big jackpot days, she said. Ray Chow, part owner of Ping Yuen Drug Store in San Francisco, said he's happy with the Lottery, but he attributed his success to his store's high volume on the extra promotions and prizes he gives out on top of the Lottery's prizes.

"We went into the Lottery as a competitive factor," said Don Beaver, president of the California Grocers' Association. But Beaver says it's hardly been worth it, considering how the arithmetic works out.

According to Beaver's calculation, the Scratcher games cost a store owner 9 to 12 cents for every dollar spent, but the store only gets back 7 cents. With the Lotto games, played on employee-activated terminals, a store gets 6 cents on every dollar spent, though it cost them 8 to 9 cents, Beaver said. Games played on consumer-activated terminals cost 7 cents, he said. To add insult to injury, Beaver said, crowds drawn to stores for a big Lotto jackpot end up hurting business. "It plugs up the lines and parking lots, and regular customers can't get in."

Lottery officials say that they are working closely with retailers to reduce the handling of the tickets. "These are tough times," said McNabb. "Nobody is going to get more money."

If Sharp plans to correct any of the problems that are keeping down the Lottery, she'll need help from the governor and from friends in the Legislature. In addition to limiting prizes to 50 percent of sales, Lottery laws also prohibit Scratcher games with themes such as sports, slot machines, blackjack or bingo. Sharp wants to change all this to make the games more enticing. Furthermore, she wants to increase the maximum amount of money that can be paid to a winning player in a retail store. As prescribed by the controller, payments of prize money over $25 for Scratcher games and $100 for on-line games take six to eight weeks.

Sharp will have to move quickly. "Each week sales go like this, it makes it increasingly difficult to make up," Sharp said.

But moving with any speed will be difficult. She has the Lottery Commission and the Legislature to contend with before making any drastic changes. She'll meet up with governmental barriers, said Gutierrez, the outgoing director. "In her state [Illinois], she didn't have these handcuffs. She didn't have those hurdles," Gutierrez said, adding that it may take an outsider to do what he couldn't do. "She will force a discussion on those points because for her they are unnatural."

For some, there's nothing left to discuss. The Lottery has proven itself to be a mistake, they say. "The best thing you can do with the Lottery is get rid of it," said Dills. "It's a poor man's sales tax. It's a fallacy. It's a fraud. The Lottery has done nothing for education [other] than create the idea that we don't have to do anything for schools."

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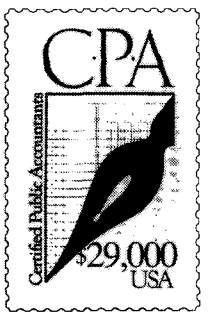

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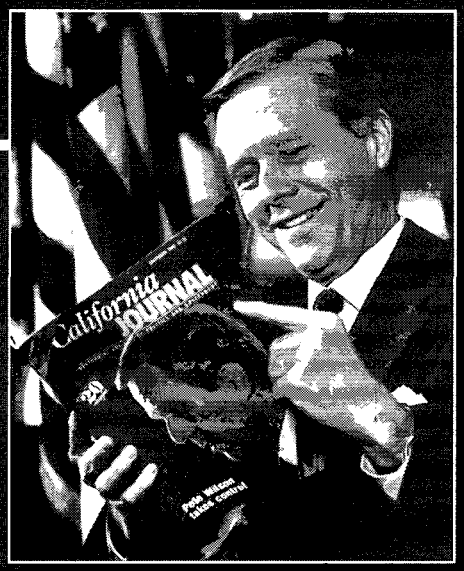

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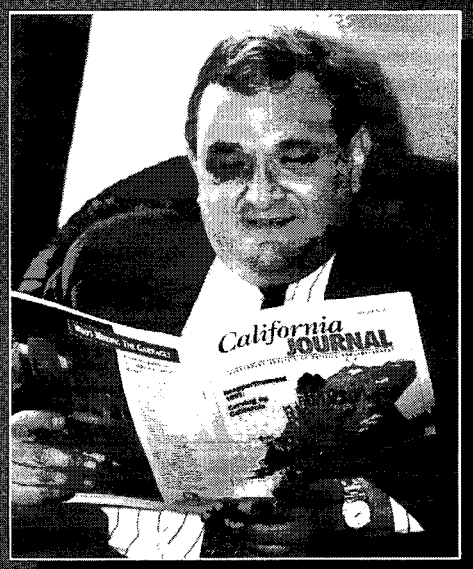

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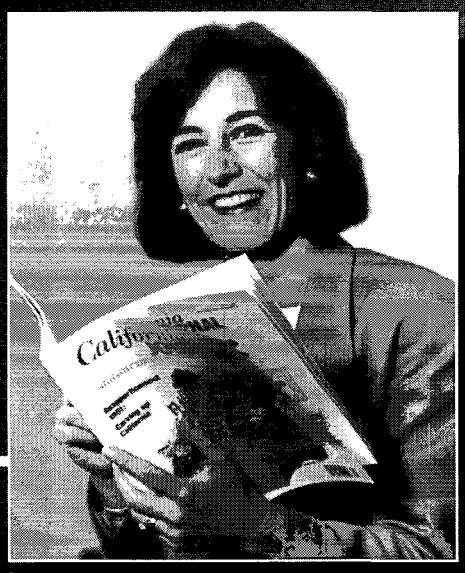

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Lottery Director Sharon Sharp

Gung-ho for the games

By Michelle Quinn

Sharon Sharp has come to California to resuscitate the ailing state Lottery. But Californians might not be ready for her. You see, she — um, well, it's not nice to say it too loudly, but she aims to make the Lottery pay.

Katie, bar the door.

Sharp has only been on the job for a month, so California is still waiting to find out if she is the friendly tax collector dabbling in the entertainment business or the Leona Helmsley of the Lottery industry — all show and no heart, eager to squeeze you out of your last pennies.

In a state where 58 percent of the voters circumvented then-Governor George Deukmejian and most legislators to give birth to the Lottery through the initiative process, Sharp's aggressive style of marketing and promotions is certain to make some politicians uneasy. Lynn Sweet, political writer for the *Chicago Sun-Times,* called Sharp, who served as Illinois' Lottery director from 1987 to March 1991, "the super saleswoman for the Illinois Lottery." Known in the lottery business as one of the industry's greatest boosters, Sharp was chosen by Governor Pete Wilson because of "her gung-ho attitude," according to a governor's aide.

It's an attitude that may stave off the state Lottery's financial woes. It's also an attitude that may run right smack into the moral ambivalence some Californians and most state politicians seem to have about the Lottery.

Hoping to make the games more responsive to the market, Sharp wants to lengthen the Lottery's political leash. This means changes in existing laws and the cooperation of state politicians. For example, with an eye to increasing players and thus the size of the pot, Sharp plans to suggest legislation that would increase the number of prizes and drop the percentage given to education — a move that could further estrange the Lottery from education's leaders.

"We're a business here at the Lottery, and we're going to learn how to run it like a business," Sharp said at her first Lottery Commission meeting.

In another era, people may have thought her blonde hair and blue eyes were movie-star glamorous. But her persona is less one of glamour than one of a driven marathon runner. Not a big-time gambler, she says she goes to Las Vegas once a year and after her stint as Illinois' Lottery director, she bought the occasional ticket. But her real gambling is with the Lottery. "In this job, you have to have guts," she told a reporter last year. "I will always risk to seek an additional revenue impact."

At a recent Lottery Commission meeting, Sharp, in a hard-hitting presentation, delivered her dismal view of California's Lottery to its five appointed commissioners — all of whom are men without marketing experience. Four of the five are over 60. She called for the complete restructuring of the California Lottery. A Lottery spokesperson called her presentation "gutsy."

Sharp, 52, admittedly lives and breathes the Lottery, so much so that she is willing to be apart from her husband and home in Illinois for the $95,052-a-year position. She says they'll visit each other three times a month. "I'm a very directed person. I wake up in the morning and I think 'lottery.' I go to bed at night and I think 'lottery,'" said Sharp, who arrives at work at 7:00 a.m. and always leaves the office well after 7:00 p.m. Sometimes, she stays until midnight.

An Illinois housewife with an unused nursing degree, Sharp had no career in mind until she became involved with the Illinois Republican Party as a volunteer during the 1960s. Twenty years ago, she returned to school to earn an associate's degree in journalism from Harper College.

Sharp got into electoral politics in 1978 when she lost a race for Illinois secretary of state against a Democratic incumbent. After her defeat at the polls, Sharp asked then-Governor James Thompson for a job to pay off her $30,000 campaign debt. He made her his special assistant for women at $25,000 a year.

From there, she moved into the job of deputy director for the Illinois Department of Commerce and Community Affairs from 1984 to 1987. The job gave her a chance to prove her marketing skills, the key reason Thompson chose her in 1987 to run the state Lottery, the fourth-largest in the country.

During her tenure as Illinois' Lottery director, Sharp raised Lotto revenues 48.6 percent by stimulating sales with a weekly television game show and a joint venture campaign with United Airlines involving free travel packages. Under her guidance, the Illinois games paid Chicago Bulls' star Michael Jordan between $650,000 and $900,000 (she and the *Chicago Tribune* disagree on the amount) for two Lottery commercials and the use of Jordan's image in coloring books. Called "Say

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yes to Graduation," the high-priced Jordan ads drew media criticism and complaints from minority leaders who suggested the ads were a scheme to bolster sales among Blacks. Sharp retorted with a letter to the *Chicago Tribune* defending both the amount paid to Jordan and the positive image he represented.

When Illinois changed governors last spring, Sharp, as well as every other gubernatorial appointee in the state, was out of a job. But she couldn't stay away from lotteries and their own addictive limelight for long. Within several months, she started a consultancy firm called Sharon Sharp Inc. Not surprisingly it specialized in the marketing of lotteries. As a consultant, she helped set up the Louisiana Lottery this year.

However, being a consultant and working in the background bored her.

"I'm very hyper. It wasn't frantic enough," she said.

In a 1990 "Frontline" documentary for public television, Sharp's frantic manner is featured in a less than flattering light. Portrayed as a fierce but spiritually shallow promoter of the lottery, she is shown painting her nails in the office, walking in Chicago with a portable telephone and greeting lottery millionaires on a cruise boat. Her gung-ho attitude is juxtaposed with a Chicago janitor who spent $72,000 on one-dollar Lottery tickets. In another scene, she recounts a conversation with a "bag lady" who had dreamed her Lottery numbers, but couldn't remember them when she woke up.

"It was touching," Sharp said.

This snapshot of a callous booster is also held up by critics who dislike Sharp's hard marketing approach. Dr. Valerie Lorenz of the National Center for Pathological Gambling said that Sharp "epitomizes the state lotteries' lack of social responsibility. She is all profit-motivated."

But Sharp dismisses any prudishness about selling the lottery or any links between lotteries and compulsive gambling. "It's time to stop moralizing on the lottery. They're here. They are part of America," she said.

Her job now is to keep the Lottery a viable part of California. This is no easy task. With sales dropping each quarter, it is not the empire she was told she was coming to. After a month in office, she is trying to be realistic.

"I would be whipping myself if I thought I could make a change in this Lottery any sooner than six months. Hopefully six months. The experts say it will take a year," she said.

BALLOT FRONT

A roundup of statewide initiative proposals. All statutes require 384,973 valid signatures; constitutional amendments require 615,958. In parentheses is the deadline for sponsors to submit signatures to county clerks, and the issue of California Journal *that contains a full explanation of each measure. The full texts of all initiatives may be obtained from the Secretary of State's election division, 1230 J Street, Sacramento CA 95814.*

New in circulation:

EXECUTIONS — an initiative statute, sponsored by Thomas Hall of Burbank, abolishes all existing laws dealing with executions and enacts new ones that require executions take place in public areas near where the crime was committed. It also requires that jury members attend the execution and that the executioner be chosen by the highest bid. (March 13, 1992)

DEATH PENALTY. PUBLIC EXECUTIONS — an initiative constitutional amendment and companion measure to the "Executions," also sponsored by Thomas Hall of Burbank. This initiative would amend the state Constitution to declare that the death penalty serves the purposes of deterring crime and of exacting society's right to retribution. It also requires that executions take place in the community where the crime took place. (March 13, 1992)

FIREARMS OWNERSHIP — an initiative constitutional amendment, sponsored by GOP state Senator Don Rogers of Bakersfield and Bernadine Smith, bars public officials, the Legislature or any "public body" from denying, curtailing, banning or taxing the right of people to keep and bear arms. It also prevents laws or ordinances meant to force people to register firearms. These rights would not apply to convicted felons or to persons declared mentally incompetent. (March 20, 1992)

TAXATION OF FOOD PRODUCTS — an initiative constitutional amendment, sponsored by Democratic Assemblyman Dick Floyd of Gardena, that prohibits state and local governments from imposing any sales or use taxes on food products that are currently exempt from such taxation under existing laws. It would also enact a statute exempting candy, bottled water and snack foods from sales and use taxes. (March 30, 1992)

Continuing in circulation:

HEALTH CARE — an initiative constitutional amendment, sponsored by Stephen Schear of Oakland. (October 31st, July 1991 *CJ*)

GAMING COMMISSION. SPORTS WAGERING. LOTTERY GAMES — an initiative constitutional amendment, sponsored by Democratic Assemblyman Dick Floyd of Gardena. (November 4th, July 1991 *CJ*)

LEGAL PRACTICES AND SERVICES — an initiative constitutional amendment, sponsored by Ken Steenolsen of Belmont Shores and Lennis Holm of Fallbrook. (November 15th, August 1991 CJ)

VACATIONS, WORKERS — an initiative constitutional amendment, sponsored by Richard Such of Palo Alto. (December 6th, August 1991 *CJ*)

FORESTRY PRACTICES — an initiative statute, sponsored by Barry Fadem of San Francisco. (December 22nd, September 1991 *CJ*)

CIVIL RIGHTS. DISCRIMINATORY CONDUCT. HOMOSEXUALITY. BISEXUALITY — an initiative constitutional amendment, sponsored by Louis Sheldon of Anaheim, Thomas Kwong Jr. of Sacramento, Frederick Price of Los Angeles, and Larstella Parker of Los Angeles. (December 23rd, September 1991 *CJ*)

RECALL OF GOVERNOR WILSON — a petition to recall Governor Pete Wilson, sponsored by Deborah Murray and Teresa Squier of Sacramento, Herbert Redlack of Carmichael, Sharon Moad of Fair Oaks and Corinne Lavorico of Woodland. (January 16th, September 1991 *CJ*)

CAMPAIGN FUNDING. CONTRIBUTION LIMITS — an initiative statute, sponsored by Republican Assemblyman Ross Johnson of Fullerton. (January 13, 1992, October 1991 *CJ*)

INITIATIVE. REFERENDUM. CITY, CITY AND COUNTY CHARTER — an initiative constitutional amendment, sponsored by Richard Gann of Sacramento. (February 7, 1992, October 1991 *CJ*)

TERMINAL ILLNESS. ASSISTANCE IN DYING — an initiative statute, sponsored by Robert Risley of Pasadena and Allan Briney of Whittier. (March 5, 1992; November 1991 *CJ*)

Source: Secretary of State

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Sierra discord

North Coast wars heat up again after governor fells timber bill

By Pat Paquette

It has been nearly a year since representatives from a half-dozen mainstream environmental groups and some of California's largest timber companies first sat down to talk about reforming logging practices on private forest lands. Environmentalists had warned this was a one-time opportunity; if the agreement they reached wasn't enacted into law in 1991, they would pull out and proceed with an initiative on the June 1992 ballot. And they promised that an initiative would be much tougher on industry than would a legislated solution.

That solution emerged from this past summer's legislative session as AB 860, sponsored by Democratic Assemblyman Byron Sher of Palo Alto. Basically, the bill banned clear-cutting of timber on lands that qualified as old-growth forests and set alternative tree-removal standards for these lands. It also regulated clear-cutting on other forest lands, reducing the maximum clear-cut size from 120 acres to 20 acres and requiring buffers between patches of clear cut. Among other provisions, AB 860 established stream-protection zones where clear-cutting also was banned and where a 50 percent shade canopy had to be maintained; limited harvesting in watersheds to 27 percent of inventory per decade; and required owners of more than 5000 acres to prepare long-term timber management plans.

But despite threats from environmentalists, AB 860 fell to a gubernatorial ax. Governor Pete Wilson, under pressure from the Republican Party and from an opposition group of big timber companies, vetoed the bill in mid-October, appearing to clear the way for what one North Coast lawmaker has termed the "Death Star" initiative. But he also left some wiggle room by saying he would sponsor new legislation in 1992 and direct the Department of Forestry to adopt more-restrictive regulations.

Continued on next page

Pat Paquette is a freelance writer from Hollister.

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Wilson's assurances may or may not prevent another initiative war. Although signature-gathering for an initiative on the June ballot is well under way, it isn't clear whether its sponsors intend to follow through. Despite earlier demands for a bill in 1991, environmental negotiators are back at the table — this time with administration staff on board — and have worked out a tentative proposal that reconfigures AB 860 into a new bill for Wilson to offer to the Legislature in January.

But the deal is far from set in stone. Negotiators for the new legislative proposal, released by the California Department of Forestry on November 4th, couldn't agree on all the provisions. As a result, none of the parties endorsed the entire bill. Even the governor has declined to sign off, ostensibly on the advice of senior staff and over the objection of the newly appointed head of the Board of Forestry, Teri Gorton. The governor's refusal to endorse the measure has environmental groups concerned whether the governor's office can be trusted to push a bill through the Legislature or whether once again it will side with timber interests. Without a guarantee from the governor, environmentalists likely will go forward with the June initiative. The administration has only until December 16th — the day signatures are due to qualify the initiative for the June ballot — to convince them of its good faith.

In his veto message, Wilson said he would direct the Board of Forestry to take immediate action on the regulatory front. Hardly anyone, however, was prepared when the board on October 16th adopted rules with no advance notice. It circumvented the usual hearing and testimony procedures by declaring an emergency. After hours of angry testimony by environmental activists and coastal timber companies, the board unanimously adopted the 120-day regulations with no debate.

The board plowed ahead under emergency conditions because, it said, new regulations were needed to stem a growing number of lawsuits against CDF and the board, and because the political debate was causing an uncertain business climate for timber companies. It also worried that civil disobedience — including a claim of spiking "logs" — was threatening public safety.

But not everyone agreed that the situation was an emergency. Among those who weren't so sure was the Office of Administrative Law, which must agree to the emergency ruling and to the new regulations themselves. The OAL discourages the use of emergency regulations because there is no provision for adequate public input. And there was strong indication that the OAL was not going to approve the board's actions. Thus, the board withdrew its new regulations on October 30th. Board staff resubmitted the package on November 13th with more documentation to support the emergency findings. The board also has announced its intentions to make the regulations permanent through the normal public process.

North Coast environmental activists and their timber company adversaries — in a rare instance of agreement — allege that the whole year's worth of maneuvering, legislating and rule-making is a result of back-room politicking between a few members of the AB 860 negotiating team and the Wilson administration.

The activists claim that Wilson is dealing behind the scenes because he fears becoming tagged as less than a sterling environmentalist during an initiative campaign.

The primary negotiators of AB 860 — former Sierra Club activist Gail Lucas and Jennifer Jennings of the Planning and Conservation League — helped draft the new legislative proposal. Although they say they weren't involved in the emergency regulations, Lucas and Jennings, allied with San Mateo investment broker Hal Arbit, apparently were able to persuade the administration of the merits of AB 860 to the extent that the emergency regulations include many of the same provisions, with some concessions to industry.

Arbit's money may be the Wilson administration's primary concern because he has the resources to finance a heavyweight initiative campaign — as he did in 1990 by pouring $5.1 million into the Forests Forever campaign (Proposition 130, which lost 52 to 48 percent). Thus, the administration's goal in negotiating a settlement may be to neutralize Arbit, to take him out of the picture by satisfying him alone. That would leave other North Coast activists to pursue a 1992 initiative without Arbit's financial muscle, thus creating less of a threat to Wilson's environmental reputation. Environmentalists and the timber industry charge that Arbit's clout may be seen in how the administration has handled negotiations since the veto.

Wilson in his veto message said he would consult all interested parties before signing off on new legislation. And aides to the governor said he intends to keep his promise to convene a meeting in early December to get input from anyone wishing to make suggestions. But grass-roots activists and timber companies complain that, suggestions aside, they have been shut out of the process that will determine which suggestions to adopt. They complain that those decisions will be made by a six-member negotiating team controlled, they charge, by the administration. And the administration's goal, they say, is to satisfy Arbit. Thus, they argue, the administration is attempting to dictate a political solution from Sacramento without involving those with the most at stake — namely the timber companies and the environmental activists who live in the area.

The North Coast activists were the original sponsors of last year's Forests Forever initiative. Arbit came along later with the objective of sponsoring an initiative that would appeal to the mainstream environmental groups, which tend to be more conservative than grass-roots activists. Arbit's lawyers argued for several months with the original authors to make their measure more moderate. He then footed the bill to gather signatures and hired a professional campaign staff.

By several accounts, the chemistry between Arbit and the North Coast activists was bad from the start. He found them egotistical and difficult to work with. They thought he was arrogant and ignorant about forestry practices, and they resented his taking over of their campaign. The exception was Lucas, who was working on Forests Forever as a North Coast Sierra Club volunteer. Lucas saw compromise as a way to make incremental progress in environmental protection whereas maintaining a hard-line position would result in no gains at all.

The timber industry countered Proposition 130 with its own measure (Proposition 138), dubbed by environmentalists as "Big Stump." Despite an infusion of $8 million, the initiative was resoundingly defeated. Industry leaders, fearing Arbit might fund a second initiative, approached him for a deal.

Arbit convened a meeting in December 1990 seeking support from seven major environmental groups to proceed with Lucas as the paid head of a three-person team that also included a lawyer and a professional forester. The grass-

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roots groups asked for but were denied a seat at the table. The official explanation was that the three negotiators didn't represent a specific group, but the environmental community as a whole.

Sources say privately, however, that the bad blood that developed between Arbit and the North Coast groups was the real reason. Arbit's negotiators add that the grass-roots activists didn't want to compromise; therefore it was inappropriate that they should participate in talks to produce compromise legislation.

As what became known as the "Sierra Accord" made its way through the Legislature, grass-roots groups complained that their technical analyses were being ignored. They also felt Lucas, one of their own, had betrayed them. None of the dozens of North Coast groups — including the Redwood Chapter of the Sierra Club — supported the accord, which they said, among other things, allowed industry so much time to comply that the forests would be depleted before the law took effect.

Negotiators responded that the grass-roots groups were upset only because they weren't in on the talks — by choice. In an increasingly bitter and personal exchange, some North Coast activists charged that Lucas wasn't schooled enough in the technical aspects of forestry to know she was cutting a bad deal. In August 1991 the administration weighed in with its proposed amendments. Among the 50-page list of nearly 100 amendments were provisions even the most conservative of environmental groups couldn't accept. The four authors in the end took more than three-fourths of the administration's suggestions, causing several of the mainstream groups to defect.

Throughout the process, a group of lumber companies not among the negotiators, operating under the umbrella of the "Coastal Working Group" (primarily, Simpson Timber, Pacific Lumber and Louisiana-Pacific) lobbied for more favorable treatment. All coastal companies, they maintained that another lumber company — Sierra Pacific Industries, the lead industry negotiator whose holdings are mostly inland — designed the agreement to gain a competitive edge by writing restrictive provisions based on inland forestry practices.

In one of the most intense campaigns ever seen in Sacramento, the group employed more than a dozen of the most influential lobbyists in the capital. According to recent financial statements, the Coastal Working Group spent nearly $420,000 during July, August and September.

After AB 860 passed the Legislature, the Coastal Working Group set its sights on the governor's office. And Wilson came through, justifying the veto by saying that the final bill wasn't what the administration had agreed to, and that it didn't balance environmental protection with the protection of jobs.

Sierra Club support is considered the litmus test for environmental legislation. But during negotiations over AB 860, the Sierra Club was beset with infighting. North Coast members were appalled that the club was going along with what they saw as a blank check to industry. In the end, club leaders took a neutral position on the bill. Lucas, more adamant than ever that the bill was the best environmentalists could hope for and a "quantum leap forward" in regulating logging on private land, resigned from the Sierra Club and struck out to lobby on her own. From then on, negotiators started calling their bill the "California Accord." The new legislation also has supporters and detractors within the club, and a Sierra Club endorsement is uncertain at this point. Other mainstream groups also have concerns.

Negotiators for new legislation include Lucas and Jennings, Sierra Pacific, administration forestry officials and a representative from Pacific Lumber. (Other members of the Coastal Working Group say Pacific Lumber doesn't necessarily represent the point of view of the group as a whole because its operations differ from theirs.) There is, however, no grass-roots representative.

While the administration is seeking a short-term solution to a political crisis, the real battle will be played out in the courts. Grass-roots activists, centered in Sonoma, Humboldt and Mendocino counties, are a diverse group. Many of them have professional careers and are articulate and well-versed in forestry practices, making them a force to be reckoned with regardless of the widely held perception that they are extremist malcontents interested only in a total ban on logging. The most vocal among them say they are seeking not a political solution but real changes in logging practices where trees aren't cut faster than the forest can naturally regenerate itself. That way, they say, their communities will be able to make a living from the forest well into the future. The timber companies, they contend, are in business for short-term profit and will abandon the area after cutting down all the trees. A series of lawsuits filed against the Board of Forestry and CDF by the Redwood Coast Watersheds Alliance and the Environmental Protection Information Center have won their first tests in San Francisco Superior Court. If upheld on appeal, they will force the board to radically alter the way it does business with the timber industry.

The Coastal Working Group likely will keep its hand in the political process through a sustained lobbying effort. If it doesn't succeed in fending off restrictions on logging, however, timber companies also are likely to go to court. Because the land being regulated is private, they contend that limiting access to their trees violates their constitutional right against taking of property without just compensation.

If the administration can produce real timber-reform legislation, Pete Wilson might be able to get some political mileage out of a compromise bill. But unless the administration is willing to deal with the difficult extremes, the timber wars will go on.

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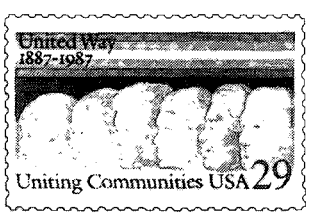

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Alexandria, VA 22314
703-684-3933

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WASHINGTON PERSPECTIVE

By LARRY LIEBERT

Running against Washington

Even more than usual, candidates in 1992 can be counted on to run against "the mess in Washington." And not even genuine members of the Washington establishment will be disqualified from attempting to exploit that theme.

AS 1991 ENDS, THE ECONOMY IS SOUR, the nation's domestic ship of state is adrift and Congress has treated the nation to a year of embarrassing spectacles — from penalty-free kited checks in the House bank to dirty talking in the sexual harassment hearings that preceded the Senate confirmation of Clarence Thomas to the U.S. Supreme Court.

To make political matters more explosive, nobody is certain which party voters are inclined to blame most when they get ready to take out their frustrations at the ballot box. There is plenty of free-floating anger and anxiety ready to be mined by the savviest consultants. That was proved stunningly on November 5th by a slash-and-burn political streetfighter named James Carville and a tweedy old liberal named Harris Wofford.

Carville has been called the Democrats' Lee Atwater because he emulates the ruthless attack strategy that the late Republican adviser to George Bush used to such devastating effect. Carville came to Pennsylvania to help rescue Wofford, who was appointed to the seat vacated by the late Republican Senator John Heinz. Not long ago, Wofford was widely viewed as an almost stereotypical example of a Democrat destined for defeat.

Instead, Carville helped Wofford gear up a populist campaign, rallying the middle class around the need for affordable health care and the failure of President Bush to address domestic needs. Equally important, Wofford lucked into a juicy target in his opponent, Richard Thornburgh. The Republican was once a popular Pennsylvania governor, but more recently he turned in a lackluster performance as Bush's attorney general. Before the race was through, Thornburgh was made the symbol of the detested establishment, and Wofford was the voters' vehicle to send a message of discontent to Washington.

What lessons lurk for California's 1992 campaign? First of all, it's a good bet that some of the state's Democratic candidates have left help-wanted messages on Carville's answering machine. More broadly, the Pennsylvania race demonstrated that the "discontented vote" is up for grabs.

Like loser Thornburgh, California's Senator John Seymour is a Republican who may have to defend Bush's domestic record during a recession in next year's campaign. Like winner Wofford, however, Seymour is an appointed incumbent who may be able to keep his distance from the entrenched establishment.

Seymour made an initial effort along those lines by leading demands for a Senate investigation of the leaks that led to the disastrous Clarence Thomas-Anita Hill hearings. The moderate Seymour may not seem a convincing rebel against the system, but his equally bland patron and predecessor, Pete Wilson, used to score some points along those lines by attacking colleagues for their taxpayer-funded mailings to voters.

On the Democratic side in the same Senate race, former San Francisco Mayor Dianne Feinstein can run for the Senate as a female outsider taking on the men's club. In the contest for the U.S. Senate seat being vacated by Democrat Alan Cranston, Democratic Representative Barbara Boxer of San Francisco of Marin can offer herself as a woman who has challenged the male congressional establishment from inside on issues ranging from defense waste to abortion rights. Boxer was among a contingent of female House members who broke protocol by marching over to the Senate side of the Capitol to demand that the Senate delay action on the Thomas nomination long enough to investigate Hill's allegations of sexual harassment.

Among Republican candidates for the Cranston seat, Representative Tom Campbell can run as an economics professor who's been struggling to talk sense into his less knowledgeable colleagues (although the Reaganomics he champions seems increasingly out of favor as the recession lingers.) Bruce Herschensohn can run as a plain-talking radio commentator who can cut through all the mush voiced by congressional careerists. And Sonny Bono is, well, Sonny Bono.

The November 5th election also carried another valuable lesson: There's no telling which way voters will bounce once they're riled up.

In Washington state, voters demonstrated that they feared California even more than they hated politicians who just don't know when to quit. After weeks of rehashing the loftier arguments against a ballot measure that would have slapped term limits on members of Congress, Democratic House Speaker Tom Foley and other Washington incumbents hit paydirt by warning that their ouster would leave California in a stronger position to grab the state's water.

"AFTER 1992, ONE OUT OF EVERY EIGHT representatives will be from California," Foley warned darkly. Although he disingenously insisted, "I'm not trying to shake out California as a threat," that's exactly what he did. It was a successful exploitation at the polls of the ABC ("Anywhere But California") resentment that simmers in Congress.

California's former Governor Jerry Brown had campaigned in Washington state on behalf of term limits, which he has made a platform in his anti-establishment presidential campaign. The day after the measure was defeated, Foley told reporters: "People in the state of Washington are not particularly anxious to have out-of-state political leaders come in and endorse political propositions, tell them how to conduct their affairs. And I think Governor Brown was perhaps from our standpoint the best news that we could have in that category."

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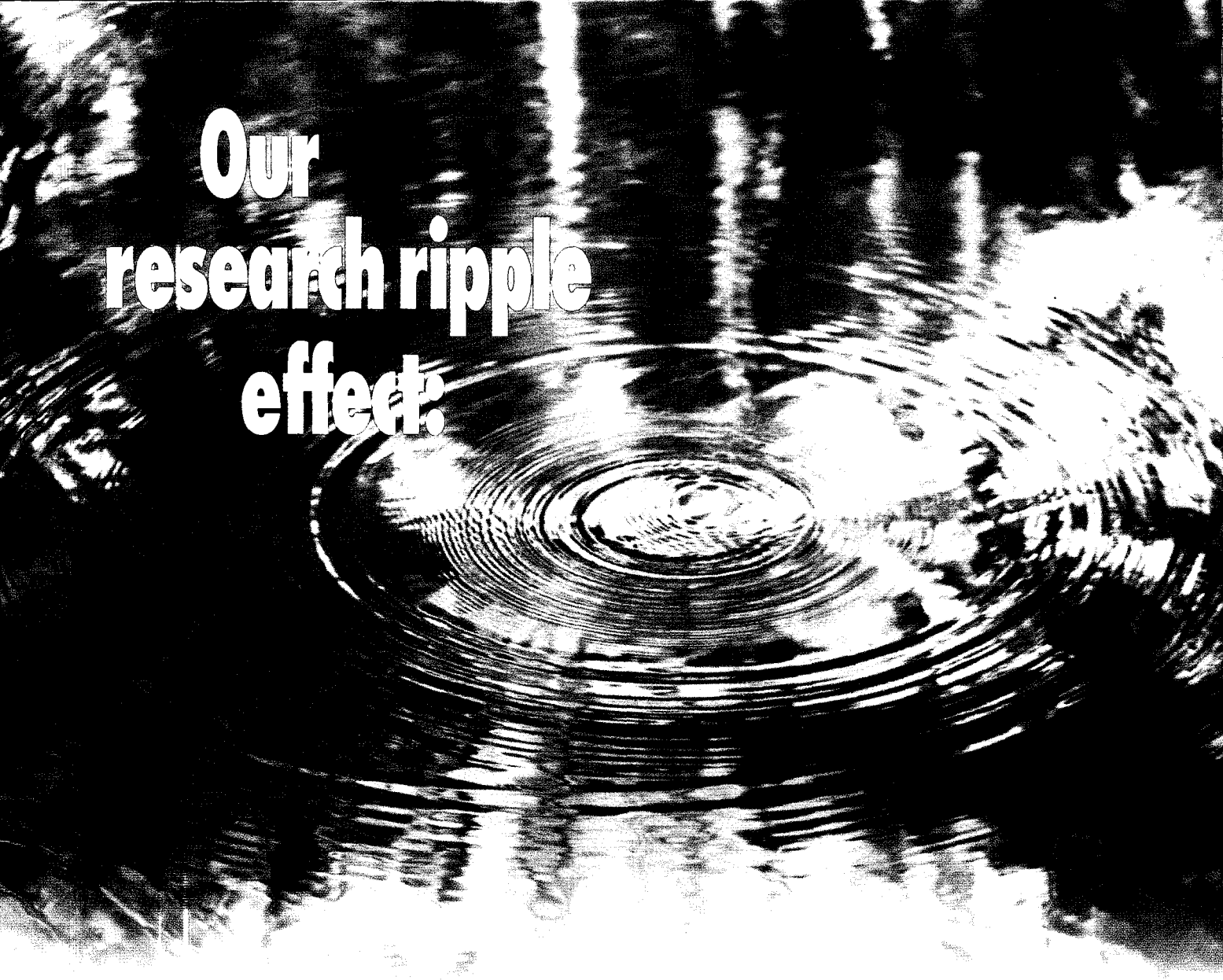

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